

9 September 2022

Director
Infant Inclined Products
Australian Competition & Consumer Commission
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CANBERRA ACT 2601

via email: IIPMarketReview@acc.gov.au

ARA SUBMISSION TO ACCC REGARDING INFANT SLEEP PRODUCTS AND INCLINED NON-SLEEP PRODUCTS

Introduction

The Australian Retailers Association (ARA) welcomes the opportunity to provide comments to the Australian Competition and Consumer Commission (ACCC) in relation to infant sleep products and inclined non-sleep products.

The ARA is the oldest, largest and most diverse national retail body, representing a \$400 billion sector that employs 1.3 million Australians and is the largest private sector employer in the country. As Australia's peak retail body, representing more than 120,000 retail shop fronts and online stores, the ARA informs, advocates, educates, protects and unifies our independent, national and international retail community.

We represent the full spectrum of Australian retail, from our largest national and international retailers to our small and medium sized members, who make up 95% of our membership. Our members operate across all categories - from food to fashion, hairdressing to hardware, and cosmetics to computers.

General Comments on Scope and Policy Approach

The ARA recognises and supports the need for safety standards for products marketed for use by infants, particularly for sleep. We note that the data cited by the ACCC shows an extremely low fatality rate for sleep products (although zero is clearly the desired objective) and that this most likely reflects the mandatory standards already in place for these products.

We note that such products need clear labelling and instructions for use that are also supported by comprehensive public education campaigns that particularly target parents or caregivers in the community who may be unaware of the risks for infants and the importance of safe sleeping practices for infants. We also acknowledge the challenges involved in getting the safe sleeping message across to the broader community and that retailers have a role to play in supporting these efforts.

The ARA notes that the scope of the ACCC's consultation relates to all infant sleep products (for example, baby hammocks, bassinets, bedside sleepers, cots), including inclined sleep products that are intended to be suitable for infant sleep, as well as those inclined products that are not intended for infant sleep but where an infant may still fall asleep (for example, infant swings and bouncer seats).

We also note that products already subject to mandatory standards, such as baby walkers, beanbags, prams, strollers, car seats and capsules are excluded from scope.

While we understand that the ACCC is undertaking a holistic review and considering the implementation of a new omnibus mandatory standard (as per Option 6), we recommend adopting an incremental approach, rather than a wholesale re-write of specific design requirements applicable to already regulated products. We believe this would be more appropriate and practical.

Further, we suggest that given the nature of the products involved and the manufacturing considerations, the introduction of any new mandatory standard should be accompanied by an appropriate transition period (at least two years for this range of products).

Finally, as a general principle, we recommend that mandatory standards are aligned, where possible and appropriate, to any voluntary standards for the same product types. The potential for considerable confusion and difficulty exists where a mandatory standard incorporates a voluntary standard that has, over time, diverged from the latest edition of the applicable voluntary standard. This issue exists today and efforts to bring greater alignment are to be supported.

ARA Preferred Option

Based on the above considerations, the ARA prefers to work towards implementation of Option 7. Further consultation on the scope and wording of a ban (of inclined sleep products over 7 degrees) would be needed and we suggest that as a first step, a preferred approach would be to align with New Zealand.

As noted above, we suggest that the mandatory safety standards need to be consistent with existing voluntary standards as well as appropriate and fit-for-purpose for each product category. This is particularly the case for warning labels, where existing industry standards already provide for warnings which are currently commonly applied by suppliers, assessed by testing facilities, and understood by consumers. We suggest that the introduction of bespoke warning label requirements in any mandatory standard would be unnecessary and inefficient, in the absence of any evidence that existing industry warning labels are inadequate.

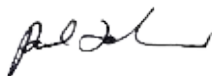
The ARA supports an either/or approach for point-of-sale warning requirements. That is, either prominent warning labels on packaging, noting that products are not always removed from packaging for display purposes; or signage at the point -of- sale. Online warnings should include the option of either a warning in text or a clear visual warning.

We note that both Option 6 and 7 would need to be supported by a comprehensive public education campaign to inform parents and caregivers, as well as retailers. The ARA would support a targeted education campaign to retailers and would be willing to partner with the ACCC on such an initiative.

We also note that retailers and manufacturers will need reasonable notice periods – two years is our suggestion - to make any changes needed to ensure compliance as safety standards are introduced.

Thank you for the opportunity to make comments and we look forward to further engagement with the ACCC and other stakeholders on this important issue.

Yours sincerely,



Paul Zahra
Chief Executive Officer