



Australian
Competition &
Consumer
Commission

Consultation Paper Review of the Consumer Product Safety Standard for Bean Bags

This consultation paper details policy proposals under consideration in the review of the mandatory standard for bean bags

18 September 2013

Closing date for submissions 21 October 2013

Australian Competition and Consumer Commission
23 Marcus Clarke Street, Canberra, Australian Capital Territory, 2601

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Contents

Purpose.....	3
Summary.....	3
Consultation	3
Background: The Australian product safety system	4
Background: Regulation of bean bags	5
The current mandatory standard	5
Bean bag products and market	6
Compliance	6
Hazards and injuries – and proposed response	7
Option to remove all regulation of bean bags.....	16
Option to retain current requirements unchanged	17
Summary and conclusion	17
Appendix A: Detail of proposed amendments	19
Appendix B: Table of stakeholder responses	21

Purpose

The purpose of this consultation paper is to consult with stakeholders on whether regulation of bean bags continues to be justified, and if so what form any continued regulation should take.

This consultation paper forms the basis for stakeholder contributions to bean bag regulatory policy development. The ACCC will consider feedback received via this consultation process before forming its recommendation to the Minister. If the comments received result in substantial changes to the options outlined in this paper, a second round consultation (or potentially a Regulation Impact Statement) may be required.

Summary

This paper proposes that bean bags continue to be regulated via a mandatory standard, with changes that address an emerging issue related to ‘baby bean bags’ as well as a number of other amendments to address findings from the review of compliance and injury data, industry trends and feedback from suppliers.

Bean bags are a product where foreseeable use or misuse has led to serious injury or death. A mandatory standard is considered reasonably necessary to reduce this risk.

The paper examines levels of compliance with the current mandatory standard, challenges experienced by some suppliers in complying with the mandatory standard, bean bag injury data, emerging bean bag hazards, the scope of the mandatory standard, and limits the current mandatory standard imposes on product innovation.

If proposals to amend the mandatory standard as recommended are accepted, a lead time of 12-18 months to enable suppliers to make any necessary changes may be appropriate.

Consultation

This paper is proposing a range of specific amendments to the mandatory standard that are considered reasonably necessary to prevent or reduce the risk of injury, while also responding to product innovation and market development that has occurred since the current mandatory standard was introduced.

Stakeholders, including suppliers of bean bags and other interested parties, are invited to make submissions based on the proposed amendments set out in this paper—or to make submissions on issues related to the supply of bean bags that are not covered in the paper.

One way to respond to the specific amendments proposed is to complete the *Table of stakeholder responses to questions about proposed amendments* at Appendix B.

All submissions received by the due date will be considered before proceeding further with the review of the mandatory standard for bean bags.

The closing date to provide your feedback to the ACCC **is 21 October 2013**.

You are encouraged to respond by email to:

Email: productsafety.regulation@accc.gov.au

Subject: Bean Bag standard review

Alternatively you may mail your response to:

Director Regulated Products and Compliance
Product Safety Branch
ACCC
GPO Box 520
Melbourne VIC 3001

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Please note that any information which you believe to be of a confidential nature should be clearly marked or identified as confidential.

The ACCC may be compelled by law to disclose submissions (for example under subpoena or following a request under the *Freedom of Information Act 1982*). For more information see the ACCC-AER Information Policy available via www.accc.gov.au

Background: The Australian product safety system

Section 104 of the Australian Consumer Law (ACL) allows the Commonwealth Minister to make a safety standard for consumer goods which may consist of such requirements as are 'reasonably necessary to prevent or reduce the risk of injury to any person'. Safety standards made under the ACL are co-operatively enforced by the ACCC and state and territory fair trading agencies.

Section 106 of the ACL provides that a person must not in trade or commerce, supply, offer for supply or manufacture for supply, consumer goods of a particular kind if those goods do not comply with a safety standard currently in force for those goods.

The mandatory safety standard for bean bags regulates the supply of bean bags.

The term 'supply' in relation to consumer goods means supply by way of sale, offer for sale, exchange, lease, hire or hire-purchase (although bean bags are unlikely to be offered for lease, hire or hire-purchase due to their low price and the nature of the product).

Background: Regulation of bean bags

The national mandatory consumer product safety standard for bean bags ('the mandatory standard') was introduced in Australia in 1987 following the deaths of two children, one in Queensland and one in New South Wales, who suffocated after climbing inside bean bags.

The mandatory standard was reviewed in 1996 and in 2006 and has remained unchanged since its inception. Best practice regulatory policies require that regulations be reviewed at least every 10 years to ensure that they continue to be justified and to address any unforeseen issues or consequences arising from the application of the mandatory standard.

Under the provisions of the *Legislative Instruments Amendments (Sunsetting Measures) Act 2012* this mandatory standard will cease to have effect in 2017 if it is not renewed or remade prior to this time.

The legislative instrument enabling the bean bag mandatory standard is regulation 11 of *Trade Practices (Consumer product safety standards) Regulations 1979*.

The current mandatory standard

The mandatory standard has two primary requirements:

1. Every bean bag, bean bag cover and package of every description containing bean bag filling must have fixed securely to it, or stamped on it, a label or notice as follows:

WARNING: Small Lightweight Beads Present a Severe Danger to Children if Swallowed or Inhaled.

The size, colour, letter case and background of the warning label are subject to specific requirements in the mandatory standard.

2. Every bean bag and bean bag cover shall have a child-resistant slide-fastener fitted to every opening through which bean bag filling can be inserted or removed.

Bean bag products and market

The bean bag market is a diverse and dynamic market with low barriers to entry. Bean bags are popular and in widespread use.

Bean bags are predominantly sold as items of indoor or outdoor furniture. The most common bean bag appears to be the teardrop shaped adult sized bean bag. An increasing number of bean bags appear to be designed and marketed for children and infants including themed bean bags and baby bean bags. Polystyrene bead filled sofas, footstools, seats, toys, and smaller products such as travel cushions, stable tables, door stoppers, iPod docks and beds for pets also fall within scope of the current bean bag mandatory standard.

Bean bags are usually supplied as covers only, necessitating the separate purchase of the polystyrene bean bag filling. Occasionally bean bags are offered for sale pre-filled but their bulkiness usually precludes distribution in this form.

Bean bags retail at a range of price points. High end bean bags supplied by specialist and/or designer retailers can reach prices over \$1000; however the majority cost between \$20 and \$150. Retail prices typically increase with size, quality of fabric and perceived 'designer' attributes.

The majority of bean bags supplied in Australia are imported. It is estimated that bean bags to the value of about \$1.6 million are imported each year. Using a nominal value of \$20 per bean bag it can be estimated that at least one bean bag per 300 Australian residents is purchased each year.

There are two known major Australian manufacturers of bean bags – King Kahuna and Adelaide Bean Bag Store. King Kahuna has two retail stores in Victoria and an online store (www.kingkahuna.com.au). Adelaide Bean Bag Store has a retail store in Adelaide and an online store (www.beanbagstore.com.au).

The widespread availability of the product and the low barriers to entry for suppliers mean that it could be difficult to effectively educate and motivate suppliers to develop and supply safe goods in the absence of a mandatory standard.

Compliance

Regular market surveys conducted by the ACCC suggest that compliance levels are high, particularly given the widespread popularity and use of bean bags. A summary of the outcomes of ACCC surveys of bean bags undertaken from 2001 to 2011 indicates 97 retail outlets and approximately 380 products were examined. Survey results suggest approximately 97 per cent of products surveyed were compliant:

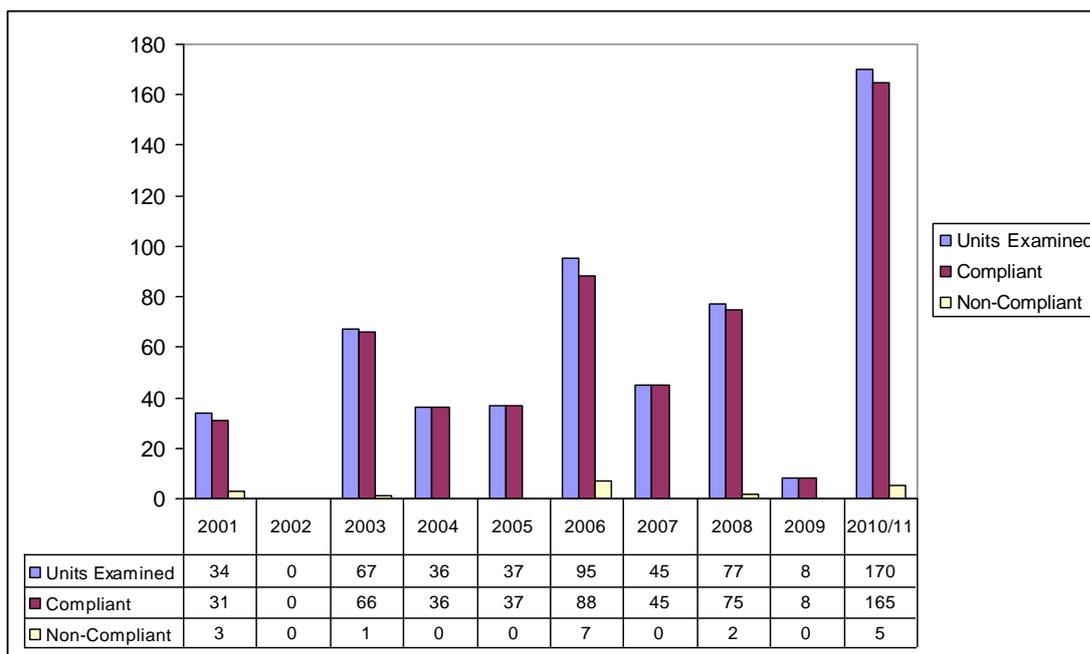


Figure 1: Summary of ACCC bean bag surveillance activity 2001-2011

However breaches of the mandatory standard have been detected and there have been nine bean bag recalls since 2006. Most recalls were due the absence of a warning notice and/or the presence of an inner zipper without child resistance features.

None of these breaches directly exposed consumers to the beans inside the bean bag or liberated beans from a bean bag and very few consumers, including children, appear to have been exposed to bean bags without adequate protection from the beads inside the bean bag.

Hazards and injuries – and proposed response

Suffocation on bean bag filler inside a bean bag

Between 1983 and 1986 two Australian children, one in Queensland and one in New South Wales, suffocated after climbing inside bean bags.

In the 26 years since 1987, when the mandatory standard was first introduced, no Australian child has died as a result of suffocation inside a bean bag.

From 1973 to 1995 the United States Consumer Product Safety Commission (CPSC) received reports of five deaths and 26 non-fatal incidents associated with bean bags¹. The deaths were:

- Two boys aged six and 13 zipped themselves inside a bean bag chair and suffocated to death.

¹ Susan Kyle and Judith Hayes, 'Bean bag chairs', *Consumer Product Safety Review*, vol. 2, no. 1, 1997, pp. 6-7, viewed 16 September 2013,

<http://www.cpsc.gov/PageFiles/117218/cpsr_nws05.pdf>

- A four year old boy crawled inside a bean bag chair and suffocated when his three year old brother closed the zipper.
- A fourteen year old boy went inside a large bean bag chair filled with foam pellets and suffocated.
- A 19-month old toddler unzipped a bean bag chair, crawled inside and suffocated.

In addition, a 'near miss' occurred when a two year old girl from El Paso, Texas survived after inhaling and ingesting bean bag filler when her older brother reportedly zipped the bean bag chair closed while she was inside².

In 1996, the US industry developed a voluntary industry standard for bean bags with requirements for a locking zipper and a permanent warning. Bean bag deaths then appeared to abate until 2012, when a three year old Kentucky girl died after being found inside a bean bag during a game of hide-and-seek. ACCC inquiries with the CPSC revealed that the bean bag zipper was not child resistant.

All of the US and Australian deaths occurred when children unzipped and entered bean bags themselves or were zipped into bean bags by other children. In each case children have been able to access the inside of the bean bag through the zip.

It can be concluded that the child-resistant slide-fasteners (or zippers) and the warning required in Australia, coupled with the high rate of compliance with these requirements, may have helped prevent further suffocation incidents of this kind here. For this reason, this paper proposes continuing to require child-resistant zippers in any revised mandatory standard.

The easiest way for suppliers to make a zipper child resistant is to take away the tab used to slide the zipper up and down. However this can also result in the zipper being difficult or inconvenient for adults to use. This review examined incidents where some suppliers appear to be circumventing this inconvenience by providing a non-compliant slide fastener, with tag to pull the zip open and closed, immediately behind a compliant fastener:

² Consumer Product Safety Commission 2002, *CPSC, Baseline Design Recall Bean Bag Chair Following Death*, media release, Consumer Product Safety Commission, Washington DC, viewed 16 September 2013, <<http://www.cpsc.gov/en/Recalls/1995/CPSC-Baseline-Design-Recall-Bean-Bag-Chair-Following-Death/>>

Inner fastener without slide tab removed (not child resistant)



Outer fastener with slide tab removed (child resistant)

This type of non-compliance resulted in Target conducting a recall in February 2012. As it is possible that this non-compliance is due to a misinterpretation of the current mandatory standard, it is proposed that:

1. The mandatory standard be amended to clarify that where a bean bag or bean bag cover has more than one slide fastener, each slide fastener must be child resistant.

This review has also examined an emerging practice where some bean bags are supplied with a paper clip provided on the bean bag, near the child-resistant fastener, but not on or with the fastener. Sometimes, instructions are provided to consumers explaining the provision of the paper clip to facilitate the opening of the bean bag.

Although this practice is not in breach of the current mandatory standard, it may undermine the child resistance of the fastener. Therefore it is proposed that:

2. The mandatory standard be amended to prohibit the supply, with the bean bag or its packaging, of any tag handle or other object which would facilitate the movement of the sliding piece of the child-resistant fastener

Suffocation of infants using bean bags as a sleeping surface

Recently, bean bags designed for use by newborns and infants ('baby bean bags'), including some bean bags that are supplied with a harness or have a harness attached to them, have appeared in the market.

While infant and baby bean bags fall within the scope of the current mandatory standard, this standard does not currently address the potential suffocation hazard associated with using bean bags as an infant sleeping surface.

Australian National Coroners Information System data records the deaths of three apparently healthy infants aged three, eight and nine months in 2001, 2003 and 2005 where the infants were sleeping on bean bags. It is unknown whether the bean bags involved were specifically designed for infants or were general use bean bags.

Between 1985 and 1992, there were 35 deaths in the United States associated with the use of infant cushions (also known as 'baby beanbag pillows' and 'beanbag cushions'). In almost all of the cases where the position of the infant could be determined, the infant was in a prone, face down, position. On June 23, 1992, the CPSC banned infant cushions/pillows that:

1. have a flexible fabric covering;
2. are loosely filled with a granular material, including but not limited to, polystyrene beads;
3. are easily flattened;
4. are capable of conforming to the body or face of an infant; and
5. are intended or promoted for use by children under one year of age³.

In Australia, Jeanine Young, Adjunct Associate Professor and Chair of the SIDS and Kids National Scientific Advisory Group, has recently noted some key concerns with baby bean bags:

- A bean bag surface does not constitute a firm, flat surface for a baby to sleep on which is necessary for the support of an open and unobstructed airway for an infant aged less than 12 months. Therefore, the product does not meet national safe sleeping recommendations;
- The softness and composition (polystyrene beads) of some infant bean bags may allow the surface to contour around a baby's head, posing a risk of mechanical suffocation if the baby turns its head into the padded sides;
- The soft surface promotes the chin to chest position for a new-born and infant, which increases the risk of both slow and rapid suffocation;
- The base can be moveable and unstable, especially as an infant becomes more mobile (e.g. at 3-4 months) presenting a risk that an infant strapped to a bean bag may topple to the side and be injured, or suffocate (particularly if unsupervised while on the bean bag).

Another concern is that the increasing use of baby bean bags may encourage carers to view ordinary bean bags as suitable infant sleeping surfaces when they are not. Even if a bean bag only partially contours around an infant's face and mouth, suffocation can occur from re-breathing air increasingly comprised of carbon

³ Consumer Product Safety Commission 2008, *Exemption From Classification as Banned Hazardous Substance; Exemption for Boston Billow Nursing Pillow and Substantially Similar Nursing Pillows*, final ruling, Consumer Product Safety Commission, Washington DC, cited in *Federal Register*, vol. 73, no. 2451, pp. 77493-77495, viewed 16 September 2013, <<http://www.cpsc.gov/PageFiles/77828/bostonbillows.txt>>

monoxide as a result of close contact with the fabric of the bean bag limiting the infant's access to new air⁴.

Baby bean bag stability concerns have also been noted by consumers. One Australian consumer contributing to an online product review website stated that her four month old 'managed to slide her head and shoulders off the side and roll it [the baby bean bag], with me catching her just in time before she hit the floor'⁵. A parent in the United Kingdom described how her daughter 'managed to flip all the way over in it, ending up face down on the floor with the product on top of her, still tightly strapped in'⁶.

Safety harnesses supplied with some baby bean bag designs may encourage carers to leave infants unsupervised. Although not a bean bag, 'Nap Nanny' portable baby recliners illustrate the potential entrapment and strangulation risks posed by harnesses attached to infant sleeping products. On 3 June 2013, the Nap Nanny infant recliner was recalled in Australia following reports of five deaths and over 70 injuries from falls, entrapment or strangulation associated with the product in the United States. The ACCC is not aware of any Nap Nanny deaths or injuries in Australia.

The recent injury data suggests an emerging hazard associated with bean bags is the suffocation death of infants placed on a bean bag. This hazard is not addressed by the requirements of the current mandatory standard; the current review is an opportunity to address this.

To address the emerging hazard associated with baby bean bags, it is proposed that:

3. The mandatory standard be amended to include a new permanent warning on all bean bags with the words *'WARNING: Children younger than 12 months have suffocated when sleeping on bean bags'*

Other injuries—bean bag filler insertions

The Victorian Injury Surveillance Unit (VISU) identified a total of 73 hospital presentations for injuries associated with bean bags and bean bag filler for the three year period from July 2009 to June 2012. Trips and falls over bean bags were excluded from this injury data as trips and falls cannot be addressed through bean bag design, performance or labelling requirements.

4 Bradley Thach, 'Tragic and sudden death. Potential and proven mechanisms causing sudden infant death syndrome', *EMBO Reports*, vol. 9, no. 2, 2008, pp. 114-118, viewed 16 September 2013, <<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2246416/pdf/7401163.pdf>>

5 'Chibebe Slumber Pod Reviews', viewed 16 September 2013, <<http://www.productreview.com.au/p/chibebe-born-to-be-a-princess-slumber-pod.html>>

6 Customer Review, 'Bambeano® Baby Bean Bag Support Chair', viewed 16 September 2013,

<http://www.amazon.co.uk/review/R295CJHO3163H9/ref=cm_cr_pr_perm?ie=UTF8&ASIN=B002C6KJWY&linkCode=&nodeID=&tag=>

Each of the 73 hospital presentations in the data set were due to insertion of bean bag filler in the ear (39) and nose (34). More than a third of cases occurred in children aged three and four years and 90% of cases occurred in children aged seven and under. Fewer than five of these cases required admission to hospital⁷.

Average Victorian annual hospital presentations appear to have increased from 20.7 cases in a VISU data set covering the period 1995-2005 to 24.3 in the most recent data set 2009-2012. Consistent across both datasets is that the majority of hospital presentations related to insertion of bean bag filler in nose or ear.

This increase cannot, however, be directly attributed to increased access to beans from inside bean bags: this type of polystyrene filling has a range of other common uses, including as packing material.

The bean bag mandatory standard was developed to reduce the risk of injury caused by access to large amounts of bean bag filling through children entering the opening used to insert beads. So far this review has been unable to identify any instances of injury from aspiration, inhalation or ingestion of bean bag filler outside the bean bag and is actively seeking any evidence that such injuries occur.

No change to the mandatory standard is proposed in response to this injury data on bean bag filler insertions.

Other proposed amendments to the mandatory standard

The bean bag review provides the opportunity to address any consequences of the mandatory standard that were unforeseen at the time the mandatory standard was made, or new issues that have arisen since. It is an opportunity to assess whether regulation of bean bags continues to be justified, and if so, to make adjustments that clarify and calibrate the mandatory standard, address any potential loopholes and lessen the restrictions to product innovation.

Clarifying the scope of the mandatory standard

Available injury data that the small amounts of bean bag filler found in products such as travel cushions and door stoppers are not particularly hazardous and need not be targeted by the bean bag mandatory standard, particularly where there are no openings from which beads can be accessed or that children can use to climb inside.

At present a bean bag is defined as a cushion or similar item which consists of a bag or cover surrounding bean bag filling. The effect of this broad scope is to require products such as stable tables, door stoppers, iPod docks and other small cushions that do not contain openings from which beads could be accessed (or that children could use to climb inside the product) to bear the proscribed warning notice.

Therefore it is proposed that:

⁷ Exact figures cannot be supplied for data sets of less than five due to hospital privacy agreements

4. The scope of the mandatory standard be amended to limit it to bean bags with filler access openings.

Narrowing the scope of the mandatory standard would remove an unnecessary compliance burden for suppliers.

Changing the title of the mandatory standard

An important way for suppliers to find regulations applying to their products is to search for regulation titles which include the name of the product. Suppliers of cushions are not presently able to ascertain from the title of the mandatory standard that the bean bag mandatory standard may apply to their products.

Although the definition of a bean bag contained within the mandatory standard states that a 'bean bag means a *cushion* or similar item', the mandatory standard itself is named *Consumer product safety standards: bean bags, bean bag covers and packages containing bean bag filling*.

The review of the mandatory standard has identified that some instances of unintentional non-compliance may have occurred when cushion suppliers searching for regulations applying to their products did not identify the mandatory standard as applicable.

Therefore it is proposed that:

5. The mandatory standard be amended to include the word 'cushion' its title.

Traceability

Product identification is required for general consumer products in the European Union and for children's products in the United States⁸.

Product identification or traceability requirements such as marking a product with a trademark, batch number or identity of the manufacturer, can assist consumers to report faulty goods, or to identify products that are the subject of a recall for safety reasons.

⁸ Australian Competition and Consumer Commission 2010, Review of the Australian product safety recalls system, Australian Competition and Consumer Commission, Canberra, viewed 16 September 2013, <<http://www.accc.gov.au/publications/review-of-the-australian-product-safety-recalls-system>>

Cohort information such as batch or serial numbers can also allow recalls and withdrawals to be highly targeted and consequently more cost-effective for suppliers. Serial numbers or batch numbers are not considered necessary at this stage.

It is proposed that:

6. The mandatory standard be amended to include a requirement that bean bags be legibly and permanently marked or labelled with either the identity of the manufacturer or with a unique identification mark from which the manufacturer can be identified.

Innovation

The mandatory requirement that every opening through which bean bag filling can be inserted or removed be fitted with a child-resistant slide-fastener, while effective at reducing access to the inside of a bean bag, appears to have prevented innovation in bean bag design.

For example in 2001, a supplier attempted to gain approval to supply a bean bag which, instead of a conventional zipper, had a filler hole to insert beads and a suction hole to remove air once the bean bag had assumed the shape of a person who was sitting on it.

The filler hole was secured by a 100mm diameter moulded cap. The cap that screwed into the hole contained two finger hole shaped recesses on the surface with centres 80mm apart. This enabled a person grasping the cap to gain purchase in order to screw or unscrew the cap.

NSW Fair Trading product safety officers assessed that the distance between the finger recesses and the amount of torque needed to unscrew the cap once firmly in place made it virtually impossible for a child under three years of age to unscrew the cap and access the bean bag filler. Nevertheless the product could not be supplied because the current mandatory standard allows only child-resistant slide-fasteners to secure bean bag openings.

Therefore it is proposed that:

7. The mandatory standard be amended to allow openings through which bean bag filling can be inserted or removed to be secured by either a child-resistant slide-fastener or a moulded plastic opening not exceeding 110 mm in diameter at

its widest point, and fitted with a child resistant cap.

A child resistant cap is a cap requiring five or more full rotations to remove. This will ensure that children aged seven and under who are most inclined to insert bean bag filler into their ears or noses are unlikely to be able to access the bean bag filler. Older children may be able to unscrew the cap but no child will be able to climb inside the bean bag from the moulded plastic opening not exceeding 110 mm in diameter.

Effectiveness of the current warning label

In 2012 the ACCC commissioned research aimed at increasing the effectiveness of warning notices. The resulting report *The Efficacy of Warning Labels: A Review of the Research* noted that to be most effective a warning should:

- be conspicuous
- alert the user to the hazard
- indicate the degree of seriousness of the hazard
- indicate what should be done, or not done, to avoid the hazard.

The current warning is:

WARNING: Small Lightweight Beads Present a Severe Danger to Children if swallowed or inhaled.

However this does not clearly identify and address the risk of children climbing inside a bean bag and suffocating.

Therefore it is proposed that:

8. The warning in the mandatory standard be amended to:

WARNING: Children have died after suffocating on bean bag filler inside bean bags. Do not let children climb inside this bean bag.

Cost of compliance

The preliminary view of the ACCC is that the compliance burden on suppliers would only marginally increase if these proposed amendments are implemented – and would be reduced in the case of suppliers of bean bags without access openings.

The ACCC considers that the changes proposed will continue to address the risk of suffocation of children climbing inside a bean bag, as well as addressing the emerging hazard posed by the use of bean bags as a sleeping surface for infants.

Amendments requiring the additional warning label, a manufacturer's identification mark and revised wording for the existing warning label will require ongoing marking and labelling costs estimated at between one and ten cents per label. One off manufacturing costs to reset bean bag label printing and in some cases to set up new bean bag marking processes are estimated to also be relatively minor, adding no more than a few cents per bean bag to bulk bean bag manufacturing costs.

Supplier compliance verification costs may also slightly increase if the amendments proposed in Option one are adopted, as two labels and one mark, or alternatively three label, instead of one label, will need to be checked for compliance. However these costs are not considered prohibitive and should not prevent any of the proposed amendments from being adopted.

Time to Commencement

A lead time of 12-18 months would ensure that older bean bag stock could be run down, or alternatively made compliant by the addition of a second warning label, and a mark or third label indicating the identity of the manufacturer.

Anticipated impact on market

The primary impact of the proposed amendments is likely to be on a small market segment that manufacturers bean bags for use by infants. The proposed inclusion of a requirement that bean bags be labelled with the words '*WARNING: Children younger than 12 months have suffocated when sleeping on bean bags*' may impact consumer demand for baby bean bags. The ACCC has not undertaken market surveys to determine whether, or the extent, to which this may be the case.

If the amendment limiting the scope of the mandatory standard to bean bags with access openings is accepted, many manufacturers of smaller products with bean bag filler but without access openings, such as travel cushions, will no longer need to add bean bag warning labels to their products. This will reduce the regulatory burden for these suppliers.

Option to remove all regulation of bean bags

In light of the rarity of Australia incidents of suffocation in bean bag filler of children who have climbed inside a bean bag the option to repeal the mandatory standard should be given consideration.

The preliminary position of the bean bag review is that the rarity in Australia of recent children's deaths from suffocation inside bean bags and the high rates of compliance might reflect the success of the mandatory standard rather than absence of the hazard, particularly as the recent US death in 2012 was associated with a bean bag without a child resistant zipper.

The additional opportunity to address the emerging hazard of baby bean bags may add further weight to the position that the continued regulation of bean bags is justified.

Option to retain current requirements unchanged

An alternative to both of these options would be to retain the current requirements unchanged. If this option is chosen current protections including a child resistant zipper and a warning label would remain, although the warning label would not be as clear about the type of hazard presented by bean bag filler inside bean bags, the severity of the hazard, or how to avoid it.

Retaining the current requirements would not address the emerging hazards suggested by recent Australian injury data associated with the suffocation deaths of infants placed on bean bags, nor remove existing restrictions and loopholes in the current mandatory standard. Suppliers would be free to supply items such as paper clips that defeat the child resistance of the zipper with bean bags, and suppliers of bean bag products without access openings that arguably do not present the hazard addressed by the bean bag regulation would nevertheless continue to be subject to the regulation.

For these reasons this option is not recommended.

Summary and conclusion

This purpose of this paper is to consult with stakeholders on the review of the mandatory standard for bean bags.

Stakeholders are invited to make submissions on the amendments to the mandatory standard outlined in this paper—or to make alternative submissions on amendments not covered in this paper.

This paper proposes that the mandatory standard be repealed and remade with a number of amendments as outlined on the preceding pages. To summarise, the changes proposed are:

1. Amend the mandatory standard to clarify that where a bean bag or bean bag cover has more than one slide fastener, each slide fastener must be child resistant.

2. Amend the mandatory standard to prohibit the supply with a beanbag or its packaging of any tag, handle or other object which would facilitate the movement of the child-resistant slide-fastener sliding piece.
3. Include a new permanent warning on all bean bags indicating that they are not suitable as a sleeping surface for children under 12 months of age.
4. Amend the scope of the current mandatory standard limiting it to bean bags with access openings.
5. Amend the name of the standard to include the word 'cushion'.
6. Include a requirement that the bean bag be legibly marked with the identity of the manufacturer or with a unique identification mark from which the manufacturer can be identified.
7. Allow a second child-resistant closure in the form of moulded plastic openings not exceeding 110 mm in diameter to mitigate design restrictions imposed by the current mandatory standard.
8. Amend the current warning to more directly describe the hazard being addressed.

Appendix A: Detail of proposed amendments

Current wording in mandatory standard	Proposed new wording
<i>Amend the mandatory standard to clarify that where a bean bag or bean bag cover has more than one slide fastener, each slide fastener must be child resistant.</i>	
Every bean bag and bean bag cover shall have a child resistant slide fastener fitted to every opening through which bean bag filling can be inserted or removed.	Every bean bag and bean bag cover shall have a child resistant slide fastener fitted to every opening through which bean bag filling can be inserted or removed. Where a bean bag or bean bag cover has more than one slide fastener, each slide fastener shall be child resistant.
<i>Amend the mandatory standard to prohibit the supply with a beanbag or its packaging of any tag, handle or other object which would facilitate the movement of the child-resistant slide-fastener sliding piece.</i>	
A child-resistant slide-fastener means a slide-fastener having a sliding piece which: (a) does not have attached to it any tag, handle or other object which would facilitate the movement of the sliding piece	A child-resistant slide-fastener means a slide-fastener having a sliding piece which: (a) does not have attached to it, or supplied with it or its packaging, any tag, handle or other object which would facilitate the movement of the sliding piece
<i>Include a new permanent warning on all bean bags indicating that they are not suitable as a sleeping surface for children under 12 months of age.</i>	
-	WARNING: Children younger than 12 months have suffocated when sleeping on bean bags. Not suitable as a sleeping surface for infants.
<i>Amend the scope of the current mandatory standard limiting it to bean bags with access openings.</i>	
-	This mandatory standard excludes cushions, furniture or similar items which consist of a bag or cover surrounding bean bag filling, which do not contain any openings of any kind through which bean bag filler can be inserted or removed.
<i>Amend the name of the standard to include the word 'cushion'.</i>	
Consumer product safety standard: bean bags, bean bag covers and packages containing bean bag filling.	Consumer product safety standard: bean bags, bean bag covers, cushions and packages containing bean bag filling
<i>Include a requirement that the bean bag be legibly marked with the identity of the manufacturer.</i>	
-	Every bean bag and bean bag cover shall have fixed securely to, or stamped on, it a legible marking or label which provides the identity of the manufacturer or with a unique identification mark from which the manufacturer can be identified.
<i>Allow a second child-resistant closure in the form of moulded plastic openings not exceeding 110 mm in diameter to mitigate design restrictions imposed by the current mandatory standard.</i>	
Every bean bag and bean bag cover shall have fitted to every	Every bean bag and bean bag cover shall have fitted to every opening through

<p>opening through which bean bag filling can be inserted or removed a child-resistant slide-fastener</p>	<p>which bean bag filling can be inserted or removed either:</p> <ul style="list-style-type: none"> a) a child-resistant slide-fastener; or b) a moulded plastic opening not exceeding 110 mm in diameter fitted with a child resistant cap. A child resistant cap is a cap requiring 5 or more full rotations to remove.
<p><i>Amend the current warning to more directly describe the hazard being addressed.</i></p>	
<p>WARNING: Small Lightweight Beads Present a Severe Danger to Children if swallowed or inhaled.</p>	<p>WARNING: Children have died after suffocating on bean bag filler inside bean bags. Do not let children climb inside this bean bag.</p>

Appendix B: Table of stakeholder responses

	Proposed amendments	Agree/ Disagree	Comments
<i>Repeal the current bean bag mandatory standard and remake it with amendments</i>			
1	Amend the mandatory standard to clarify that where a bean bag or bean bag cover has more than one slide fastener, each slide fastener must be child resistant		
2	Amend the mandatory standard to prohibit the supply with a beanbag or its packaging of any tag, handle or other object which would facilitate the movement of the child-resistant slide-fastener sliding piece		
3	Include a new permanent warning on all bean bags that they are not suitable for sleeping for children less than 12 months old		
4	Amend the scope of the mandatory standard limiting it to bean bags with access openings		
5	Amend the name of the standard to include the word 'cushion'		
6	Include a requirement that the bean bag be legibly marked with the identity of the manufacturer or with a unique identification mark from which the manufacturer can be identified		
7	Allow a second child-resistant closure in the form of moulded plastic openings not exceeding 110 mm in diameter		
8	Amend the current warning to more directly address the hazard being mitigated		
<i>Repeal the current mandatory standard and rely on market forces to supply safe products</i> Comments:			
<i>Retain the current requirements of the bean bag mandatory standard unchanged</i> Comments:			

