



Australian
Competition &
Consumer
Commission

International standards for the safety of consumer products: criteria for acceptance

ACCC policy principles

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Australian Competition and Consumer Commission
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1. Context

The Australian Competition and Consumer Commission (ACCC) is an independent Commonwealth statutory authority that enforces the *Competition and Consumer Act 2010*, including the Australian Consumer Law, to enhance the welfare of Australians by promoting fair trading and competition and through the provision of consumer protection.

The Australian Consumer Law empowers the Commonwealth Minister to make a mandatory safety or information standard or to ban a product. These mandatory standards apply to businesses and are often based on requirements in existing voluntary Australian or international standards. The ACCC and state and territory Australian Consumer Law regulators enforce the mandatory standards specifically directed at consumer goods. This is different to electrical safety, industrial goods, building products or other goods where specialist regulatory frameworks apply.

In the '*Industry Innovation and Competitiveness Agenda: An Action Plan for a Stronger Australia*' published on 14 October 2014 the Australian Government proposed:¹

To reduce duplicative domestic regulation, the Government will adopt the principle that if a system, service or product has been approved under a trusted international standard or risk assessment, then Australian regulators should not impose any additional requirements, unless there is a good and demonstrable reason to do so. This will reduce costs and delays for businesses, increase the supply of products into the Australian market and allow regulatory authorities to focus on higher priorities.

The Minister for Small Business asked the ACCC to develop and make public criteria to be used to determine whether international standards are appropriate for use in product safety standards. In May 2015 the ACCC published a draft of the criteria for public comment and, after considering 84 formal submissions and other discussions with stakeholders, the criteria were reviewed and finalised and are published in this document.

The ACCC will use the criteria when regulatory action is being considered to address safety problems with particular goods. This normally happens as part of a regulation impact assessment and in the ACCC advice to the Minister. The ACCC will use the criteria to assess the potential role of international standards in setting mandatory safety requirements for those goods in Australia.

¹ Department of Prime Minister and Cabinet, *Industry Innovation and Competitiveness Agenda: An Action Plan for a Stronger Australia*, DPMC, 2014, p. 31 available: https://www.dpmc.gov.au/sites/default/files/publications/industry_innovation_competitiveness_agenda.pdf

2. Criteria

The criteria for considering international standards will assist the ACCC identify trusted international standards that might be used to protect consumers from unsafe goods while at the same time minimising additional costs and burden for business.

The criteria will be applied on a case by case basis and more than one international or Australian standard may be referenced or included in a mandatory standard. There may be occasions where international standards are unsuitable and where only an Australian standard (if one exists) is suitable.

Criterion 1 - Addressing safety concerns

- Is there evidence that the international standard provides an acceptable level of consumer safety?

How we do this

- Are there appropriate international standards that improve the safety of goods resulting in an acceptable level of consumer safety?
 - Appropriate international standards will be determined on a case by case basis and included as options in the Regulation Impact Statement which will be open for consultation during the normal ACCC process.
- We will not consider an international standard unless it provides an acceptable level of safety for consumers.
- In developing regulation we consider the benefits and the costs of each available option. We aim for the highest possible safety outcome that does not unnecessarily restrict consumer choice of products and that does not impose unnecessary costs or requirements on business.

Criterion 2 - Comparable jurisdiction to Australia

- Is the international standard published or developed by a legitimate standards body or government agency from an economy or nation with comparable economic and regulatory processes to Australia?

How we do this

- We consider whether the international regulatory and standards making processes and institutions are robust and comparable to those of Australia.
 - Does the standards body or government agency have a credible and consistent track record?
 - Are the international standards developed via publicly transparent processes?
 - Is there a record of actively managing the quality of standards (such as peer review, independent auditing of processes and outcomes, periodic reviews)?
- We also consider:
 - Does the international standard specify requirements for products supplied into a market economy?
 - Is the international standard accepted as authoritative by stakeholders in the relevant jurisdiction?

- What accreditation and certification schemes exist in the relevant jurisdictions and do amendments need to be made to ensure the safety of consumers in Australia?
- In circumstances where more than one international standard meets the criteria, we will include this information in the Regulation Impact Statement for broader consultation.

Criterion 3 - Applicability to the Australian context

- Is the international standard applicable and sufficient in the Australian context?

How we do this

- We consider Australian injury data, societal and environmental conditions and other circumstances which may provide a basis for varying or not accepting an international standard. This will be done on a case by case basis with the assessment of the most robust and conclusive evidence available.
- We strengthen and maintain relationships with relevant stakeholders including state and territory Australian Consumer Law regulators. This assists our understanding of how the economy and market works and ensures that the circumstances of all Australians are being considered.
- We consider whether accepting an international standard would conflict with government policy (for example, where an international standard conflicts with state or territory laws).
- We engage with our international partners who help provide an insight to the nature of international standards in an environment external to Australia. We routinely consider international standards and risk assessments conducted by these agencies whenever they are available. We use them in assessing options to limit consumer exposure to hazards from goods.
 - This allows us to focus on aspects of the problem that may present differently in Australia such as differences in climate, consumer behaviour, regulatory frameworks, medical infrastructure, or in the products marketed in different countries.
- We consider the regulatory costs and benefits of adopting Australian-specific requirements, including the potential costs from fragmentation between Commonwealth regulations and those of the Australian states and territories.
- We consider the scope for the ACCC and the Australian Government to influence the future direction and requirements of an international standard.
- We consult with relevant businesses, consumers and safety experts to understand their perspective on which international standards may be suitable for use in Australia.
 - Is the international standard used now or likely to be used in the future by manufacturers?
 - Is there likely to be a demand in Australia for products that comply with the international standard?
- We determine if the standard is reasonably available to Australian consumers and businesses and if it is available in reasonably understandable English.

3. Reviewing the Criteria

The criteria will be used whenever a mandatory safety or information standard is developed or reviewed in the future. Those activities already include public consultation and will provide the ACCC with the opportunity to consider how the criteria work in practice. The ACCC will monitor and review the criteria as needed.