



Australian
Competition &
Consumer
Commission

Discussion Paper

PROPOSED SERVICE STANDARD: Corded Internal Window Coverings

October 2011

Australian Competition and Consumer Commission

23 Marcus Clarke Street, Canberra, Australian Capital Territory, 2601

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Purpose

1. To provide background and invite comment on a proposed service standard relating to the safe installation of corded internal window coverings (CIWC).

Current Situation

2. Prior to the introduction of the new national Australian Consumer Law (ACL) the Commonwealth led a project to harmonise state and territory regulations which related to the supply of certain consumer goods and CIWC was one of those. A national mandatory safety standard for the supply of CIWC was introduced in July 2010 and modified in November 2010.
3. Safety standards for the supply of CIWC were introduced because of concerns about child strangulation. The 2010 Regulatory Impact Statement reported that the National Coroners Information System recorded 10 cases of child death in Australia in the period since 2000. US reports indicate there were at least 200 child deaths in the US in the period 1991 to 2005.
4. Prior to the harmonisation of the standards for supply of CIWC there were no specific standards relating to the service of installation of CIWC. State and territory power to enact service standards was varied and associated with some ambiguity. Some jurisdictions did not have legal power to set service standards.
5. The national supply standard for CIWC:
 - relates to window coverings with a cord, whether looped or not (previous laws only captured window coverings with looped cords);
 - reduces the measurement of a hazardous loop from 300mm to 220mm;
 - provides that a cord guide must be designed (a) to remain firmly attached to a wall or other structure when subjected to a tension force of 70 Newtons applied in any direction for 10 seconds and (b) prevent the possibility of a cord forming a loop of 220mm or longer at a height less than 1600mm above the floor; (previous laws required cord guides to be “fixed and immobile” but did not specify how this could be tested.);
 - A CIWC must be supplied with all of the following – a warning label on any retail packaging; a warning label or swing tag attached to the cord; installation instructions containing required information; and any components specified in the installation instructions as necessary for cord safety requirements. The wording in the warning labels attached to the products is intended to make it clear that the risk is death. There is also a requirement for an additional warning label on retail packaging which describes the risk as death.

The warnings labels and swing tags must conform to specified requirements such as: being legible; in red; use uppercase letters; be at least 5mm high; on a white background. The text for warnings and for swing tags are prescribed and indicate the reason for the warning, the threat to children and safety advice.

Rationale for a Service Standard

6. The Australian Consumer Law (s104 (1) and (3)) gives power to introduce a safety standard for product related services which are reasonably necessary to prevent or reduce risk of injury to any person. This includes specification of the manner in which services are supplied.
7. A service standard would confer unambiguous power on the regulator to take action where installations are hazardous and inconsistent with the information provided in the supply standard. It would complement the current mandatory supply standard's objectives in reducing death or injury attributed to CIWC's and complete the work started by the harmonisation of the supply standard.
8. Reasons in favour of a mandatory service standard for installation of CIWC include:
 - Failure to install a CIWC safely represents a potentially life threatening hazard. Past CIWC deaths indicate this is a substantial risk to life;
 - It is clear that unsafe installation is a contributory factor to the hazard presented by CIWC. There are indications that unsafe installation is a continuing problem;
 - While industry comment to ACCC is that much installation is undertaken by regular contractors and is consistent with the information provided in the supply standard (and would therefore comply with a service standard) insufficient information makes it impossible to be confident that new installations are being undertaken in such a way as to avoid life threatening hazards to young children;
 - Development of a service standard addressing unsafe installation will complete the work started by the development and harmonisation of the supply standard (now that the Australian Consumer Law (ACL) provides the power to do so);
 - The regulatory tool previously available to at least some states to take enforcement action against unsafe installation of CIWC is no longer available under the harmonised law;
 - Requiring safe installation is reasonable, consistent with and only a small extension of, existing powers relating to supply. It is the ACCC's view that an installation requirement would complement the national supply regulation.
9. On the basis of available information it is ACCC assessment that compliance with a service standard would not be onerous.
 - The effort required to install safely is not materially different from general installation and devices required for safe installation are already required to be supplied with the product under the existing supply standard;

- Information relating to safe installation is already supplied under the existing supply standard. This information includes both the hazard (loops and lengths of cord accessible to young children) and the means of prevention (ensuring that any loops or lengths of cord are above 1600mm from the floor).
10. It should be noted that any service standard would not be retrospective. Corded internal window coverings which have previously been installed will not require reinstalling. Any existing hazards associated with unsafe installation will not be affected by any regulatory intervention and will need to be dealt with when CIWC are replaced and/or as part of education campaigns.

Possible key provisions / likely format

11. A service standard would need to be consistent with the existing supply standard and could:
- Require that the installer follow the **information provided in the supply standard and the manufacturer's instructions** (provided that these are consistent with the installation information in the supply standard).
 - Specify the **performance** requirements of the installation. Requirements would be consistent with the supply standard but may also refer, where appropriate, to devices and fastenings.
 - Require the installer to provide a document to the consumer with the installer's name and contact details and affirming that the installation is consistent with the information provided in the supply standard. The service standard might require a label giving installer's contact details to be permanently affixed to the CIWC and community comment is specifically sought on this.
 - Require the installer to keep a record of installations so that, if an unsafe installation is identified the installer responsible would be able to provide names of other customers to allow their installation to be checked.
12. A service standard could apply to all CIWC installations or it could be directed to encompass specific types of buildings (such as domestic dwellings) or to exempt certain types of buildings (such as buildings designated Class 5 and above in the Building Code of Australia). Community comment is specifically requested on this issue.

Process

13. The process for implementation of a service standard includes:
- Circulation of this Discussion Paper inviting comment;

- Acceptance or modification of the proposal in line with the comments received;
- Submission of drafting instructions for the Regulation;
- Circulation of the Draft Regulation for public comment;
- Finalisation and submission for Ministerial approval; and
- Registration of Regulation as a Legislative Instrument.

Possible timetable

14. Following the process outlined above it is envisioned that a Regulation could be in place in the first quarter of 2012.
15. On the basis that there is substantial existing industry compliance with the proposed terms of a service standard and that the requirement would only apply to new installations it is proposed that the Regulation come into force at time of Registration.

Public comment

16. Public comment is invited on this proposal by:

Email to: productsafety.regulation@accc.gov.au

OR

Mail to: Director
Regulatory Policy
Product Safety Branch
ACCC
PO Box 3131
Canberra ACT 2601

Due date for comment: **5 December 2011**