

EXPLANATORY STATEMENT

Consumer Protection Notice No. 8 of 2006

Issued by the Authority of the Parliamentary Secretary to the Treasurer

Trade Practices Act 1974

Consumer Product Safety Standard – Prams and Strollers

Subsection 65E(1) of the Trade Practices Act 1974 (the Act) provides that the Minister may, by notice in writing, declare that, in respect of goods of a kind specified in the notice, a particular standard, or a particular part of a standard, prepared or approved by Standards Australia, with additions or variations specified in the notice, is a consumer product safety standard for the purposes of section 65C.

Paragraph 65C(1)(a) of the Act provides that a corporation shall not, in trade or commerce, supply goods that are intended to be used, or are of a kind likely to be used, by a consumer, if the goods are of a kind in respect of which there is a consumer product safety standard and they do not comply with that standard.

This instrument declares certain parts of the Australian/New Zealand Standard for prams and strollers, AS/NZS 2088:2000, as varied, to be a Consumer Product Safety Standard for the purposes of section 65C. The purpose of the safety standard is to ensure that prams and strollers have key safety features that address the product's known safety hazards and so reduce the associated risk of injury to infants.

The Australian/New Zealand Standard specifies safety requirements relating to the materials, design, construction and performance of prams and strollers, together with instructions and warnings for their use.

The Consumer Product Safety Standard adopts only those parts of the Australian/New Zealand Standard considered necessary to address the critical safety hazards of the product, and comprises requirements that address known entrapment and other critical safety hazards.

An additional safety feature comprising a requirement to supply a simple tether strap with the product has been added to the safety standard to address a recently reported problem of strollers rolling away from carers. Two infant deaths and a number of injuries have resulted from this problem in Australia.

Where considered necessary, the requirements adopted from the Australian/New Zealand Standard have been varied to make them substantially compatible with the corresponding requirements of the European Standard for wheeled child conveyances and the US ASTM standard for prams and strollers. The Australian market includes products made to comply with the Australian, European and US Standards, and the key safety features of these standards are similar, but not identical.

A Regulation Impact Statement (RIS) for this Consumer Product Safety Standard is at Attachment 1. The RIS identifies the product safety issues and considers the options for addressing the issues. The case is presented for introducing a mandatory safety standard for prams and strollers and the rationale for the content of the new standard is explained.

A draft of the RIS was circulated for consideration by interested parties including manufacturers and suppliers of prams and strollers, State and Territory Fair Trading/Consumer Affairs agencies, consumer groups and child safety specialists. Comment received supported the regulation of prams and strollers. Consultation proceedings are reported in the RIS.

The Consumer Product Safety Standard is a legislative instrument for the purposes of the Legislative Instruments Act 2003.

The Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments, but in order to allow a reasonable period of time for suppliers to ensure that all stock complies with the new safety standard, the date of effect is 1 July 2008.

REGULATION IMPACT STATEMENT



THE REGULATION OF PRAMS AND STROLLERS UNDER THE TRADE PRACTICES ACT 1974

June 2007

**Product Safety Policy Section
Australian Competition & Consumer
Commission**

INTRODUCTION

This regulation impact statement was developed by the Australian Competition and Consumer Commission (ACCC) to examine the need for government regulation of the supply of prams and strollers. The decision maker is the Parliamentary Secretary to the Treasurer.

Prams and strollers are designed to provide a convenient means of transporting infants and toddlers when carers are travelling on foot. They provide a bed or seat for infants and toddlers, carried on a frame that is mounted on a set of wheels. Prams and strollers usually fold to make a more compact package for carrying in a car, bus, train or aeroplane. Some models are convertible and can be used as either a pram or stroller

Concerns have been raised over recent years about the safety of prams and strollers in the Australian market. There have been many reports of children being injured in prams and strollers, including a number of deaths.

The Infant and Nursery Products Association of Australia estimates that 740,000 prams and strollers are sold in Australia each year. None are produced in Australia, with the majority being sourced from Asia and a smaller number from Europe.

Prams and strollers on the Australian market range in price from about \$50 for a simple stroller to \$2000 for a top-of-the-range combination pram-stroller. Many products are labelled to indicate they are compliant with the Australian Standard.

PROBLEM

What is the problem being addressed?

The problem to be addressed is the protection of infants against the risk of injury and death associated with the supply of unsafe prams and strollers. Currently, prams and strollers supplied on the Australian market are not required to comply with any safety standards, and examples have been found that fail to provide basic critical safety features.

As infants spend considerable periods of time in prams and strollers, the products must be free of safety hazards. Prams and strollers need to be safe and reliable for use in a wide variety of environments where people might walk, including at home, in shopping centres and on footpaths and roadways.

The majority (estimated 90%) of these products on the market in Australia are claimed to meet voluntary safety standards such as the Australian or the European Standards, and in general provide reasonable levels of product safety. The remainder may not comply with any standard and may therefore be an unreasonable risk to infants.

Standards Australia established a voluntary safety standard for prams and strollers, AS 2088 Prams and strollers – safety requirements, in 1977. The

latest (5th) edition of the standard (AS/NZS 2088:2000) was published in 2000. The objective of the Standard is to provide manufacturers, authorities and others with minimum safety requirements in order to reduce the likelihood of injury to children. Standards Australia is currently undertaking a further review of the standard to ensure that it remains relevant to the market.

Deaths

A search of the Australian National Coroners Information System (NCIS) found 3 infant deaths associated with prams and strollers since January 2000. The products involved in these incidents appear to be combination pram/strollers, and the infants were resting in them at the time.

Deaths examined by Coroners before this period are not currently recorded on the NCIS. However, Product Safety Policy Section is aware that in the 1990s at least 2 infants died in Australia and New Zealand as a result of accidents with their prams.

Recently, 2 infant deaths have been reported where 3 wheel strollers have rolled away from the carers operating them and into a river. These incidents were not listed in the NCIS at the time of review.

While the Coroners reporting system describes the injury mechanisms and any associated product type, it does not usually identify the specific brand or model of product involved. Accordingly, the information does not normally facilitate determination of product compliance with safety standards and hence the effectiveness of safety standards.

Injury data

Currently there is no nationally coordinated injury data collection that would allow a direct measure of total injuries in Australia associated with prams and strollers. However, available State injury data do identify the types of injuries being sustained and provide a means of gauging the dimensions of the problem. Monash University Accident Research Centre (MUARC) analyses data collected by 37 Victorian hospital emergency departments and compiled for the Victorian Emergency Minimum Dataset (VEMD), which provides a significant data sample.

MUARC reports that for the period 1996 to 2006 the VEMD database lists 1170 cases where infants sustained injuries associated with prams and 278 cases where injuries were associated with strollers. Most injuries were wounds to the head or face (58%), and some 78% of injuries were the result of falls. Other significant injuries included crushing injuries and traumatic amputations.

Over the past year, City Rail in Sydney reported a number of incidents where 3 wheel strollers have rolled off railway platforms, resulting in a range of injuries to infants in the strollers. These incidents are similar to the cases noted above where strollers ran into a river, and illustrate the problem inherent in a stroller that is designed to roll easily over uneven paths, having a light-

weight frame and large free-running wheels. City Rail is addressing the platform problem through passenger education and platform modifications. The problem is also being considered by the Standards Australia technical committee responsible for the pram/stroller Standard.

As with the Coroner's information system, hospital data systems necessarily provide limited detail on injuries being treated in emergency departments, which does not allow the identification of particular brands or models of any associated products. The level of detail reported does not permit an assessment of the effectiveness of any relevant product safety standards.

Consumer Reports

A search of ACCC consumer complaints records for the period January 2000 to April 2007 found a total of 104 complaints about prams, including 20 reports of serious safety concerns, and 33 complaints about strollers, including 11 reports of serious safety concerns.

Product Recalls

A search of the Product Recalls Australia data found 2 safety-related recalls of strollers for the period January 1990 to April 2007, one due to an identified brake failure and one due to wheel problems.

Potential for Injury

Child health and safety specialists recognise that infants are vulnerable to a range of hazards due to their limited physical and mental development. As infants spend considerable time in their prams and strollers in a variety of potentially hazardous environments, these products need to be robust and inherently safe.

Potential hazards for this product include possible gaps that may entrap heads, arms and fingers, poor latching mechanisms that may contribute to collapse of the pram/stroller folding mechanism resulting in crush or amputation injuries, lack of structural integrity allowing key components to break or separate which typically may result in fall injuries, inadequate child restraint systems that may result in falls from the vehicle and lack of adequate use instructions which could exacerbate a range of hazards.

As noted above, the present data establishes that prams and strollers are associated with infant injuries and deaths, but do not allow assessment of the effectiveness of relevant safety standards. However, serious safety incidents associated with prams and strollers have been subject to investigation by product safety specialists which has identified critical injury mechanisms and led to the development of safety standards to address the hazards. Accordingly, product safety specialists are confident that present safety standards are necessarily reducing the potential for injury.

OBJECTIVES

What are the objectives of government action?

The Government's consumer protection policy includes the objective of ensuring that consumer products are safe. Particular attention is paid to products intended to be used by children because children cannot be expected to recognise risks to their safety and are therefore reliant on products they use being inherently safe.

The Trade Practices Act includes provisions to support this objective through the establishment of mandatory consumer product safety and information standards, product bans, recalls of unsafe products and the issuing of product safety warning notices.

The Government's aim in relation to the safety of prams and strollers is to reduce the risk of serious injury and death to children as a result of accidents in the use of the product.

Is there a regulation currently in place? Who administers it?

There is no specific national or State regulation for the manufacture or supply of prams and strollers in Australia. There is, however, provision under the Trade Practices Act to take action in relation to the supply of unsafe goods through the issuing of warning notices or through the recall of products where it can be shown that they will or may cause injury. These provisions are considered not satisfactory in controlling sensitive product categories such as nursery products because they are normally applied to remedy a situation where unsafe products are found to be in the market and are identified by the accumulation of injury data. Demands for recall action can result in disputes requiring judicial resolution.

The European Product Safety Directive requires consumer products to comply with relevant national standards, which effectively means that prams and strollers supplied in Europe must comply with the European Standard for Child Care Articles – Wheeled Child Conveyances, EN 1888:2003. This Standard specifies a range of safety requirements covering materials, structural integrity, elimination of entrapment gaps, security of folding mechanisms and the provision of instructions for use.

OPTIONS

The viable options available to achieve the product safety objective are:

1. Maintain the status quo, i.e. rely on the current level of industry self-regulation and consumer education;
2. Quasi-government regulation, being government endorsement of a voluntary industry program, such as a code of practice, that requires suppliers to adhere to safety standards; and

3. Government regulation of prams and strollers. The appropriate regulatory mechanism would be to control the supply of prams and strollers through a Trade Practices Act consumer product safety standard that specifies compulsory safety requirements drawn from existing safety standards.

Consumer education is currently provided by the ACCC and by State Offices of Fair Trading/Consumer Affairs through the distribution of consumer awareness material on the safety of nursery products, including prams and strollers. It is envisaged that consumer education would continue as an adjunct to each of these options, but on present experience it could not be considered an effective stand-alone option. This is because the technical nature of pram and stroller safety mechanisms is such that it is unlikely that an average consumer would be able to reliably assess the safety of the products using published safety guidelines.

IMPACT ANALYSIS

Impact Groups (See table of costs and benefits at **Attachment A**)

The proposed viable options would affect families that use prams and strollers, businesses involved in the supply of prams and strollers (manufacturers, importers, distributors and retailers), government (including consumer product regulators) and providers of emergency hospital services.

Option 1: Status Quo – Industry Self-Regulation (voluntary compliance with standards)

Continuing the present arrangements whereby industry determines which products it will supply would permit the supply of any prams and strollers regardless of compliance with product safety standards.

Many products in the market are thought to comply with safety standards, and it is understood that the level of compliance is driven by the major retailers demanding compliance with safety standards as part of their risk management strategies. However, this mechanism does not apply to all retailers and results in the sale of some products that do not provide basic safety features, and the exposure of infants to serious risks.

Costs and benefits to consumers

The potential costs to consumers include:

- Continuing uncertainty that prams and strollers on sale provide an adequate level of safety. Not all products carry labelling to indicate compliance with reliable safety standards, and consumers might easily be misled by supplier claims;
- A continuation of the risk to infants where prams and strollers do not provide basic levels of safety; and

- Medical and other costs of injury/death where this occurs.

The potential benefits to consumers include:

- Unrestricted supply of prams and strollers, providing consumers with a wide choice of products and competitive prices;
- Price competition in the market due to the lack of market restrictions. However, the advantages of an unrestricted market are considered minimal because most products on the market do comply with safety standards, including some of the cheaper products.

Costs and benefits to industry

The costs to industry include:

- Continuing uncertainty about the need for safety requirements for prams and strollers;
- Continuing uncertainty about what safety standards are appropriate for the Australian market. Some suppliers adhere to the Australian Standard while some 40% of product on the market is made to comply with the European Standard; and
- The potential for recalls of products that are identified as unsafe.

The benefits to industry are cost savings where suppliers choose not to comply with safety standards, allowing unrestricted product selection and pricing competition.

Costs and benefits to government

The costs to Government are:

- The need for consumer safety agencies to react to incidents involving unsafe products;
- Community criticism of the Government for failing to control the safety of the products;
- Costs incurred as a result of reliance on the judicial system for redress in the case of the supply of dangerous goods; and
- Medical costs associated with the treatment of injuries associated with the use of unsafe prams and strollers.

Option 2: Quasi-Regulation

This option would comprise the development of a voluntary industry program for the supply of prams and strollers. The program would typically involve a Government endorsed industry code of practice whereby suppliers of prams and strollers voluntarily adhere to agreed product safety standards.

Costs and benefits to consumers

The costs to consumers could be

- A reduced choice in the market, as some existing products would be withdrawn because either they do not meet voluntary standards or the supplier would not be prepared to undertake testing of the product to confirm compliance;
- Not all suppliers are members of industry associations and accordingly would be unlikely to be captured by an agreed industry code, which would leave untested products in the market and require consumers to assess the safety of the product; and
- The cost of injuries associated with prams and strollers that do not provide adequate product safety.

The benefits to consumers would be an overall increase in the level of product safety, and an expected corresponding reduction in injuries related to the use of prams and strollers.

Costs and benefits to industry

- The cost of putting in place and maintaining the infrastructure to support quasi-regulation. Previous experience with industry codes of practice suggests that these costs would amount to approximately \$30,000 per year;
- This would require an on-going cooperative commitment by all industry participants, involving some form of supplier registration, monitoring of the market and a system of review and redress for cases of non-compliance; and
- The costs to individual suppliers of ensuring that products meet agreed safety standards.

The benefit to industry would be improved consumer confidence that products on the market are safe.

It is considered that a large part of the market comprising major retailers already complies with voluntary safety standards for prams and strollers, and the introduction of an industry code of practice would be unnecessary for these groups. However, the remaining sections of the market, such as independent retailers who are not members of retail chains or franchises may not be members of industry associations and would need to be convinced of the benefits to their businesses of following a voluntary code of practice.

Costs and benefits to government

- Where products lacking safety features continue to be supplied, the Government may be criticised for failing to protect the public from unsafe products; and

- The cost of negotiating a suitable industry program, monitoring the program and monitoring the market to ensure that the initiative is effective. The estimated cost to government is \$40,000 per year.

The benefit to government would be an expected reduction in injuries related to prams and strollers due to improved levels of product safety, which would result in less demand on public hospital emergency departments.

Option 3: Introduce a Mandatory Minimum Standard

The safety of products in the Australian market might be controlled through a mandatory consumer product safety standard declared under the Trade Practices Act. A TPA mandatory standard would require all prams and strollers supplied by incorporated bodies or through cross border trade to comply with a declared standard. It is usual practice for State and Territory governments to adopt TPA mandatory requirements into their legislation, which allows enforcement by State jurisdictions and extends the application of the requirements to sole traders.

An appropriate mandatory safety standard for prams and strollers might be based on the relevant Australian Standard as it specifies key safety requirements that are widely accepted and are also broadly reflected in the corresponding European and US Standards.

Accordingly, an appropriate mandatory minimum standard might reference the key requirements of the Australian Standard, varied where necessary to ensure the requirements are compatible with the corresponding European and US Standards.

The key pram and stroller safety features of these standards considered justified for inclusion in a mandatory minimum standard are:

- Avoidance of dangerous gaps to reduce the potential for entrapment;
- Provision of restraining harness for the child to help prevent falls;
- Provision of a parking brake to ensure the vehicle can be parked safely;
- The provision of a tether strap on the pram/stroller with a warning to operators to tether the vehicle to themselves with the strap whenever the parking brake is not applied which will help address the problem of strollers/prams rolling away from carers; and
- Warning labels on the safe use of the pram/strollers to help ensure that mechanisms are operated safely and the potential hazards are reduced.

A mandatory minimum standard incorporating these specifications would:

- Eliminate from the market those prams and strollers that do not meet key safety requirements, thereby reducing the level of risk to infants;

- Give consumers confidence that products on the market provide a reasonable level of safety; and
- Provide a framework for industry to determine appropriate levels of safety for these products.

The proposed requirement for the provision of a tether strap and warning on its use is not included in current voluntary safety standards, although many new strollers are fitted with tether straps. The proposal therefore represents an additional requirement for prams and strollers, which would be unique to the Australian market. Where a stroller is not currently fitted with a tether strap, the cost of this proposal to suppliers is estimated to be about \$5 per vehicle for the strap and \$1 for the warning label, depending on the number of vehicles being supplied.

Possible trade implications

The Commonwealth Government has obligations to ensure that its regulations do not impose unnecessary barriers to trade by setting standards that make compliance by overseas manufacturers difficult. However, under the terms of the Agreement on Technical Barriers to Trade, a Government is able to regulate to protect human life and health, especially where it can be shown to be necessary to achieve reasonable levels of consumer protection.

The European Product Safety Directive is considered to provide its 25 member countries with similar effective consumer protection from unsafe prams and strollers. There is a high degree of conformity among standards in respect of the key safety requirements, and therefore Australia is not setting a precedent by establishing a mandatory minimum standard for prams and strollers.

The Australian Standard differs from other similar safety standards to some degree, and it is considered that mandating the Australian Standard as a whole would impose an unreasonable barrier to trade and may be seen to impact significantly on Australia's WTO commitments. Accordingly, it is proposed that a mandatory safety standard should be based on the key elements of the Australian Standard, adjusted where necessary to make them compatible with the European and US Standards. However, the proposed mandatory standard includes a requirement for the provision of a tether strap which is not currently part of any published standard. Tether straps are fitted to many 3 wheel strollers, and the requirement has been adopted to address the recently reported problem of roll-away accidents.

Standards Australia has commenced a review of the Australian Standard, which will likely lead to a change in some of the technical specifications of the Standard. The review process might be expected to take 6-12 months to complete, but where appropriate the proposed mandatory standard anticipates some of the changes being planned for the Australian Standard.

The proposed mandatory minimum standard would facilitate compliance by overseas manufacturers by being compatible with major overseas standards.

Costs and benefits to consumers

The costs to consumers would be some reduction in the choice of prams and strollers and a possible loss of access to some cheaper models where the supplier would not be prepared to undertake testing of the product to confirm compliance.

The benefits to consumers would be a reduced cost of injury associated with unsafe prams and strollers due to the exclusion of unsafe products from the market, and an assurance that prams and strollers on the Australian market are as safe as anywhere in the world.

Costs and benefits to industry

The possible costs to industry will be the loss of opportunity to retail an unrestricted choice of prams and strollers and the cost of ensuring that products comply with prescribed safety requirements.

It is estimated that about 10% of prams and strollers on the Australian market do not comply with suitable safety standards, mainly involving products supplied by independent retailers. For these suppliers, the additional unit cost of sourcing products that comply with the proposed mandatory safety standard is estimated to be about 5%, and they might choose to supply complying products within their price structure. Because these suppliers often do not specialise in baby products, prams and strollers would represent a minor component of their business. They may therefore decide to discontinue selling the product with minimal effect on their business overall.

A mandatory minimum standard provides benefits to industry because it provides clarity as to what is required in providing a safe product, and should make it easier for suppliers to identify complying products.

This can reduce management and administrative effort to ensure compliance, provide a higher level of confidence in compliance and help avoid the potential cost and inconvenience of product recalls and possible litigation.

Costs and benefits to government

Enforcement costs are estimated at \$30,000 per annum, which would include the costs of market surveys to monitor the compliance of products with safety requirements and any associated enforcement action deemed necessary. To enforce the safety standard, the ACCC would establish rigorous monitoring of the market to identify any non-complying products and allow their prompt removal. It is expected that the State and Territory Fair Trading agencies would mirror the Commonwealth regulation, thereby multiplying the capacity for monitoring the safety of the market.

The benefits to government would be improved consumer safety due to the elimination from the market of unsafe products, an associated reduction in personal and community trauma, reduced medical and hospitalisation costs and a stronger and more responsible market. The wellbeing of the community

in general, and especially those most vulnerable, such as children, is a keystone of government policy, and establishing product regulation will assure the community that product safety is being addressed.

CONSULTATION

This Regulation Impact Statement setting out the case for the regulation of prams and strollers was submitted for consideration by:

- consumer groups;
- the Consumer Products Advisory Committee (CPAC) to the Ministerial Council on Consumer Affairs (MCCA) (comprising Commonwealth, State, Territory and New Zealand Consumer Affairs/Fair Trading officers);
- industry representatives;
- industry organizations including manufacturers, distributors and retailers;
- child safety experts such as Kidsafe; and
- medical and health sector representatives.

A total of 45 organisations were consulted in this process, with a period of up to 3 weeks being allowed for responses.

Comment received through consultation

Comment was received from a child safety expert with experience in safety standards for nursery products, consumer product regulation authorities, consumer product test organisations and suppliers of prams and strollers.

Comment received supported the introduction of a mandatory safety standard for prams and strollers as the most effective option for ensuring the safety of these products on the Australian market. Differing views on the implementation of the proposed standard were received. The views were analysed and compared to develop the final form of the proposed standard.

A summary of the comments received and the corresponding responses is at Attachment B. The majority of comment focussed on the technical content of the proposed mandatory standard. Comments from suppliers noted that the proposed mandatory standard omits a number of requirements that might be considered necessary to ensure the safety of the products. These include features such as the elimination of finger entrapment, sharp edges, sharp points and requirements for durability and performance testing. While it is accepted that these are valid concerns, it is apparent that products currently on the market already provide adequate safety in these areas, making it unnecessary to mandate the requirements.

Concern was raised by ACCC and State regulation enforcement officers that some specifications proposed for inclusion in the standard do not appear justified in terms of reported injuries. These include requirements for the elimination of protrusions, reversible handles, footrests, detachable components and folding mechanisms. While these features contribute to the safety of the products, current injury data do not clearly attribute common or serious injuries to inadequacies in these features. This is seen as an indication that most products currently on the market voluntarily meet the requirements. Accordingly, it is accepted that the case for mandating the requirements is not compelling, and they have been removed from the proposed mandatory standard.

Advice was received from a supplier on the compatibility of the proposed mandatory standard with the European and US Standards for prams and strollers, based on tests conducted using in-house test facilities. On this advice, the proposed mandatory standard has been amended to improve compatibility with the European Standard by including alternate test requirements for stroller head barriers drawn from that Standard.

A few respondents considered the proposed inclusion of a tether strap in the mandatory requirements to help prevent roll-away accidents would not enhance the safety of the product. Respondents also noted that this requirement is not included in existing standards. However, the views submitted on this essentially equate the use of a tether strap with the use of the existing parking brake, and are conjecture. This does not negate the rationale that in many circumstances a tether strap can be more convenient and when in use it will always restrain the vehicle without a conscious effort by the carer. By comparison, to restrain a vehicle with the parking brake would the brake to be applied whenever the vehicle is stopped. The evidence of recent roll-away accidents suggests that parking brakes are frequently not being applied, even though all prams and strollers are believed to have them fitted.

Rationale for a minimum standard

The proposed minimum set of requirements for the mandatory standard has been determined through consideration of the objective to reduce the rate of injuries associated with the product and the Government objective not to impose unnecessary regulatory burdens on business.

Determination of the proposed set of minimum requirements takes account of the fact that most products currently on the market already comply with major safety standards, and there is generally no need for the proposed mandatory standard to restate or override those requirements. Accordingly, the mandatory standard has been formulated to address only the critical key safety issues that are considered essential for all prams and strollers supplied in Australia.

CONCLUSION AND RECOMMENDED OPTION

Option 1 to continue the present industry self-regulation and consumer awareness is not considered viable given the level of risk to children and the limited effect of industry self-governance. It is reported that currently major retailers are driving product safety levels through their risk management policies which require products to comply with safety standards, but this mechanism does not apply to the entire market. Consumer education is considered a useful means of reaching product users, but has not proved effective in eliminating unsafe or untested products from the market. It is thought difficult for consumers to assess the safety of prams and strollers.

Option 2 to seek to ensure the provision of safe prams and strollers through quasi-regulation is not considered feasible because of the uncoordinated nature of the market. Product sold through major retailers might be effectively controlled by through industry associations coordinating voluntary compliance with safety standards, but the product is also sold through numerous supply chains and retail outlets for which there is no effective means of coordination.

Option 3 establishing explicit government regulation by declaring a mandatory minimum standard for prams and strollers that includes key safety requirements that are common to the Australian, European and US Standards is considered the only effective means of achieving an improved level of protection for consumers. The proposed regulation would make compliance simple for industry and impose a minimum burden on consumers and industry. For these reasons, Option 3 is the preferred option.

Option 3 would comprise a mandatory product safety standard declared under the Trade Practices Act, supplemented by consumer and supplier awareness materials and programs describing the product safety hazards being addressed and the requirements of the safety standard. The product safety awareness campaign would cost an initial \$20,000 for the program and materials.

The program would aim to ensure consumers purchased only prams and strollers which meet the mandatory minimum standard and encourage carers to take reasonable precautions when using the products. A supplier's guide would raise awareness of a supplier's responsibility to ensure that only prams and strollers meeting the prescribed standard are manufactured or imported for sale in Australia.

The campaign would be ongoing with specific opportunities to target consumers being identified over the next 3-5 years and materials reprinted on a needs basis.

IMPLEMENTATION AND REVIEW

It is proposed that the new mandatory minimum standard for prams and strollers will be declared as soon as possible and take full effect in 12 months time. This course of action will immediately highlight concerns about the

safety of the product to suppliers and consumers, while providing suppliers with a reasonable period to source complying products where necessary.

The new mandatory standard will be expected to commence in July 2007 (with full effect from July 2008) and be subject to review after five years, or when the Australian Standard is revised.

Compliance with the new mandatory standard will be facilitated via comprehensive supplier information and guidance, and the mandatory minimum standard will be enforced by regular market surveillance and selected product testing by the ACCC.

The effectiveness of the regulation will be assessed through analysis of market survey findings, recall action, and the incidence of pram and stroller injuries that might be identified from injury data.

ATTACHMENT A

TABLE OF COSTS AND BENEFITS

		Option 1: Maintain Status Quo (Industry Self-Regulation)	Option 2: Quasi-Regulation (Industry Code)	Option 3: Government Regulation (preferred option)
COSTS	Consumers	Continuing uncertainty about the safety of prams and strollers on the market. Continuing incidence of injuries associated with prams and strollers that do not have key safety features.	Reduced choice in the market with the withdrawal of some non-complying products.	Reduced choice in the market with the withdrawal of non-complying products.
	Industry and Small Business	Continuing uncertainty about appropriate safety standards for prams and strollers supplied in Australia. Continuing potential for product liability claims and product recalls where prams and strollers prove to be hazardous.	Need to put in place and maintain the infrastructure to support quasi-regulation. Previous experience with industry codes of practice suggests that these costs would amount to approximately \$30,000 per year. The cost of ensuring that products meet safety standards.	Loss of opportunity to retail an unlimited choice of prams and strollers. The cost of ensuring that products meet safety standards.
	Government	The need for consumer safety agencies to react to incidents involving unsafe products.	The investment of considerable effort consulting with industry to educate and encourage the development of arrangements	Enforcement costs of approximately \$30,000 per annum, to be supported by an ongoing safety awareness

		Option 1: Maintain Status Quo (Industry Self-Regulation)	Option 2: Quasi-Regulation (Industry Code)	Option 3: Government Regulation (preferred option)
		<p>Potential costs incurred as a result of reliance on the judicial system for redress in the case of the supply of dangerous goods.</p> <p>Public health system costs related to the treatment of injuries associated with unsafe prams and strollers.</p>	<p>for industry codes.</p> <p>Estimated costs of \$40,000 per annum.</p>	<p>campaign costing an initial \$20,000</p>
BENEFITS	Consumers	<p>Continuation of the present wide choice of prams and strollers on the market.</p>	<p>Some reduction in infant injuries associated with prams and strollers due to expected overall improvement in product safety.</p> <p>Increased confidence that the goods they buy are safe.</p>	<p>Minimised incidence of injuries associated with unsafe prams and strollers.</p> <p>An assurance that prams and strollers on the Australian market are as safe as anywhere else in the world.</p>
	Industry and Small Business	<p>Freedom to supply an unrestricted range of prams and strollers and to decide appropriate levels of safety for the products supplied.</p>	<p>Industry guidance on appropriate levels of product safety.</p>	<p>Access to clear specific requirements which offer the opportunity to reduce management and administrative effort to ensure compliance.</p> <p>Avoidance of the cost and inconvenience of product recalls</p>

		Option 1: Maintain Status Quo (Industry Self-Regulation)	Option 2: Quasi-Regulation (Industry Code)	Option 3: Government Regulation (preferred option)
				and litigation.
	Government	The absence of any requirement to formally monitor the safety of products on the market.	A stronger and more responsible market. Some improvement in product safety.	Improved consumer safety. Minimised personal and community trauma. Reduced medical and hospitalisation costs.

**ATTACHMENT B
CONSULTATION COMMENT**

A draft Regulation Impact Statement proposing the regulation of prams and strollers was circulated for consideration by interested parties. The comment received was analysed to help determine whether the proposed mandatory safety standard is appropriate and to determine the form of standard that should be implemented.

Respondents supported the proposed introduction of a mandatory safety standard as the most appropriate option for addressing injuries associated with the use of prams and strollers.

Comment was received on a number of aspects of the proposed standard, including the technical content, with recommendations for varying the standard. The recommendations were analysed and taken into account in the development of the final form of the proposed standard.

Below is a summary of recommendations for variations to the proposed mandatory safety standard, together with the response determined after analysis:

- a) *Recommendation:* The introduction of the standard should be delayed pending completion of the review of the Australian/New Zealand Standard for prams and strollers currently being undertaken by Standards Australia.

Response: The recommended delay is not supported as completion of the current review of the Australian Standard is subject to a variable timeframe. Implementation should proceed as proposed.

- b) *Recommendation:* To help overcome a reported conflict between distributors and retailers in the clearance of existing stock and supply of complying products, the implementation date for importers and manufacturers should be end of June 2008 and for retailers the implementation date should be end of December 2008.

Response: While recognising the potential for conflict between distributors and retailers in the switch to complying products, it is considered that the proposal would be unlikely to remedy the situation and the further delay would not meet community expectations.

- c) *Recommendation:* Basing a mandatory safety standard on Australian/New Zealand Standard 2088 may make it unlawful to supply strollers made to other standards such as the US ASTM and so result in substantial disruption to the market.

Response: The proposed standard has been minimised and amended on advice of potential areas of technical conflict between the Australian, European and US standards.

- d) *Recommendation:* Definitions of “may” and “shall” (clauses 4.5, 4.8) proposed for deletion should be retained.

Response: Regulators advise that the definitions do not compromise enforcement under the TPA. Definitions reinstated.

- e) *Recommendation:* The proposed deletion of minimum pram side height requirements (clause 5) is seen as an unwarranted reduction in safety.

Response: Deletion seeks to avoid problems of technical differences between the Australian and European Standards, and it is considered that adequate side height is unlikely to be compromised by the omission. Leave out as proposed.

- f) *Recommendation:* The proposed deletion of clause 6 Materials would permit the use of coatings containing heavy metals.

Response: This hazard does not appear in injury stats, and appropriate certification tests are a major burden for suppliers. Leave out as proposed.

- g) *Recommendation:* The proposed inclusion of the head protection protrusions requirement in clause 7.1 is not justified by injury data and should be omitted.

Response: Agree, omit clause 7.1.

- h) *Recommendation:* The proposed deletion of clause 7.2 Open Ended Tubes could reduce product safety.

Response: Safety issue not identified in injury stats and considered not a problem with current products. Leave out as proposed.

- i) *Recommendation:* Injury data do not support the inclusion of requirements for reversible handles specified in clause 7.3.

Response: Requirement addressed the potential for injuries, but it is agreed these mechanisms on current products are not clearly linked to injuries. Omit clause 7.3.

- j) *Recommendation:* The proposed inclusion of a requirement for a footrest (clause 7.4) is not justified in terms of injuries received.

Response: It is considered that footrests reduce the potential for injury, but it is agreed that such a hazard should be reasonably obvious and it would be appropriate for this matter to be determined by the market. Omit clause 7.4.

- k) *Recommendation:* The proposed inclusion of requirements for detachable components (clause 7.5) is not justified in terms of

injuries.

Response: A review of available data did not relate injuries this specific requirement. Omit clause 7.5.

- l) *Recommendation:* The proposed deletion of the test for small parts choking hazard (clause 7.5) would make compliance less clear, recommend reference to the latest toy standard.

Response: Small parts requirement not found to be justified and clause 7.5 to be deleted entirely as determined above.

- m) *Recommendation:* The parking brake (clause 7.6) should be subject to additional requirements (operating lever to be red colour) being developed for AS/NZS 2088 by the relevant Standards technical committee. This should help address the known hazard of strollers rolling away.

Response: Agree. Key requirements drawn from the proposed revised Australian Standard have been added to clause 7.6.

- n) *Recommendation:* Suggestion that requirements for folding mechanisms (clause 7.7) proposed for inclusion may not be supported by injury stats.

Response: This requirement was included due to potential for serious injury, but further analysis was unable to clearly link such failures to reported injuries. Clause 7.7 to be omitted.

- o) *Recommendation:* The proposed deletion of requirements for harness release buttons (clause 7.8.1.1 (d)) is opposed as it reduces safety.

Response: Inclusion of the requirement is considered to be excessively limiting. Leave out as proposed.

- p) *Recommendation:* The proposed deletion of the shoulder strap requirement (clause 7.8.1.2) is seen as a reduction in safety.

Response: Deletion provides alignment with European and US Standards and addresses concerns that shoulder straps can be an entrapment hazard. Leave out as proposed.

- q) *Recommendation:* The waist strap requirements (clause 7.8.1.3) is likely to be a problem for some product made to EN 1888, and simplified wording is suggested.

Response: Agreed to amendment to clause 7.8.1.3 to overcome problem.

- r) *Recommendation:* The proposed new requirement for a tether strap to be fitted to all prams and strollers (clause 7.10) is opposed as it appears relevant only to 3 wheel “jogger” style strollers.

Response: Advice has been received that there is little difference between the mobility of 3 wheel and 4 wheel strollers, and it is considered desirable to provide this additional control for users of all prams/strollers. Leave as proposed.

- s) *Recommendation:* The proposed tether strap (clause 7.10) is opposed as it does not appear to provide additional safety, it could impede the operation of the vehicle, and could be a strangulation hazard for infants.

Response: There is clear evidence that parking brakes are not being applied, and a tether strap provides a convenient additional means of restraining the vehicle. It is accepted that suppliers may need guidance on eliminating the potential strangulation hazard associated with tether straps, and the strap specification has been expanded, drawing on the requirements for cords in the Toy Standard to specify a maximum loop perimeter of 360 mm. The maximum cord length of 220 mm specified in the Toy Standard is not adopted for tether straps because such a length may prove impractical for the purpose. An alternate length requirement is specified in terms of “short as practical”. Amend clause 7.10.

- t) *Recommendation:* The proposed deletion of tests for durability, projections, sharp edges and sharp points (Clauses 8.1, 8.2, 8.3 and 8.4) is opposed as they are seen as necessary to determine the safety of the product.

Response: These tests do not address reported injuries and are not identified with current products. Leave out as proposed.

- u) *Recommendation:* The proposed deletion of the test for the harness (clause 8.6.1) is opposed as it is considered as important to ensure that the harness is effective.

Response: Retention of the test is problematic as the major standards use differing methods. Leave out as proposed.

- v) *Recommendation:* Amend requirements for head barrier efficacy (clause 8.6.2(a)) to allow compliance with similar requirements in European Standard EN 1888.

Response: Agreed. Amend clause 8.6.2(a) to include alternate requirements drawn from EN 1888.

- w) *Recommendation:* Amend requirements for head barrier entrapment requirements (clause 8.6.2(b)) to allow compliance with similar requirements in EN 1888.

Response: Agreed. Amend clause 8.6.2(b) to include alternate requirements drawn from EN 1888.

- x) *Recommendation:* The proposed deletion of tests for security of wheels, reversible handle engagement, locking devices, specification of the sequence and packaging and labelling requirements (clauses 8.8, 8.9, 8.10 and 10) is opposed because these are all safety-related.

Response: The omitted test requirements do not address known injuries. The provision of instructions can be important for the safe operation of prams/strollers, but the specification of points for inclusion in the instructions is problematic and differs between major standards. It is considered that the form of instructions and packaging requirements can be a matter for the supplier to determine. Leave out as proposed.

- y) *Recommendation:* The specification of a testing sequence and most onerous configuration (clause 9) proposed for deletion should be retained.

Response: Clause is considered not critical due to the reduced list of test procedures. Leave out as proposed.

- z) *Recommendation:* The requirements for supplier identification and model number (clauses 11.1 (a) and (b)) proposed for deletion are considered important for product safety and should be retained in the standard.

Response: Agreed, the requirements can be important in the case of product safety issues and recalls. Clauses 11.1 (a), (b) to be included.

- aa) *Recommendation:* Suggested amendments to the product marking requirements and warnings in clause 11.1 would create a compliance conflict for products certified to the Australian Standard.

Response: Noted and agreed. Clause 11.1 requirements to be restored to avoid conflict.

- bb) *Recommendation:* Legibility of marking (clause 11.2) proposed for deletion should be retained to ensure a minimum size and style of lettering.

Response: Specified requirements are considered too restrictive, but simplified general requirements to be added to clause 11.2.