

EXPLANATORY STATEMENT

Select Legislative Instrument 2010 No. 212

Issued by the Authority of the Minister for Competition Policy and Consumer Affairs

Trade Practices Act 1974
Trade Practices (Consumer Product Safety Standard – Corded Internal Window Coverings)
Regulations 2010

Subsection 172(1) of the *Trade Practices Act 1974* (the Act) provides, in part, that the Governor-General may make regulations not inconsistent with the Act, prescribing all matters that are required or permitted by the Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

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 there is a consumer product safety standard for those goods and they do not comply with that standard.

Subsection 65C(2) of the Act provides that a regulation may, in respect of goods of a particular kind, prescribe a consumer product safety standard consisting of such requirements as are reasonably necessary to prevent or reduce risk of injury to any person. These requirements may relate to, among other things, contents, design, packaging of goods, and the form and content of warnings or instructions to accompany them.

The purpose of the *Trade Practices (Consumer Product Safety Standard – Corded Internal Window Coverings) Regulations 2010* is to introduce a safety standard for corded internal window coverings to reduce the incidence of, and potential for, death and injuries to young children, and to give effect to a decision by the Council of Australian Governments to introduce a national product safety regime which harmonises existing State and Territory product safety requirements. The standard requires that corded internal window coverings supplied after 30 December 2010 must be provided with warning labels, include installation instructions and include certain components required for the installation of corded internal window coverings.

The Regulations provide national regulatory requirements to replace existing State and Territory regulatory requirements.

Details of the Regulations are in [Attachment A](#).

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*. For the purposes of section 17 of that Act, full details of the consultation undertaken are incorporated in the Regulation Impact Statement which provides the justification for these Regulations and which is at [Attachment B](#).

The Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

Details of the Trade Practices (Consumer Product Safety Standard – Corded Internal Window Coverings) Regulations 2010

Regulation 1 – Name of Regulations

This regulation provides that the name of the Regulations is the *Trade Practices (Consumer Product Safety Standard – Corded Internal Window Coverings) Regulations 2010*.

Regulation 2 – Commencement

This regulation provides that the Regulations commence on the day after they are registered.

Regulation 3 – Purpose

This regulation provides that the *Trade Practices (Consumer Product Safety Standard – Corded Internal Window Coverings) Regulations 2010* prescribe a consumer product safety standard for corded internal window coverings.

Regulation 4 – Application

This regulation provides that the Regulations apply to corded internal window coverings supplied after 30 December 2010.

Regulation 5 – Definitions

This regulation defines the various terms used in the Regulations.

Regulation 6 – Standard — corded internal window covering

This regulation provides the requirements for corded internal window coverings to be accompanied by a warning label on any retail packaging, a warning label or swing tag attached to the cord, installation instructions and any components specified in the installation instructions as necessary for cord safety requirements. The regulation provides the requirements for the design of any cord guide that may be supplied with a corded internal window covering.

Regulation 7 – Standard — warning on retail package

This regulation provides the requirements for the warning label that must be provided on any packaging of a corded internal window covering as required under Regulation 6.

Regulation 8 – Standard — warning on cord

This regulation provides the requirements for the label which must be attached to the cord of a corded internal window covering as required under Regulation 6.

Regulation 9 – Standard — installation instructions

This regulation provides the requirements for the installation instructions that must accompany corded internal window coverings as required under Regulation 6.

Regulation Impact Statement

Cord or Chain Operated Internal Window Coverings

**Product Safety Hazard Response Branch
Australian Competition and Consumer
Commission**

2010

OBPR Reference 11290

1. INTRODUCTION

This Regulation Impact Statement (RIS) has been prepared by the Australian Competition and Consumer Commission (ACCC) to examine the risks associated with cord or chain operated internal window coverings (corded internal window coverings) and to assess the costs and benefits of regulating these furnishings under the product safety provisions of the *Trade Practices Act 1974* (TPA).

In late 2006 the Australian Government requested the Productivity Commission undertake an inquiry into Australia's consumer policy framework. The inquiry reported on ways to improve the framework in order to empower consumers, harmonise and coordinate consumer policy across jurisdictions, and avoid duplication and increases in regulation. The Productivity Commission found there was little justification for any differences in product safety regulation across Australia and that there was a compelling case for greater national consistency in consumer product safety regulation, since variations impose substantial costs for little extra benefit. The Productivity Commission considered that the ACCC should be responsible for enforcing the product safety provisions nationally.

In 2007 the Ministerial Council on Consumer Affairs agreed to join with several State fair trading bodies to commence a review of all the existing product safety standards and bans that operate throughout Australian Commonwealth, State and Territory jurisdictions. That review identified many bans and mandatory standards which did not apply across all jurisdictions. The review identified the existence mandatory standards for corded internal window coverings in all States and Territories, and concluded that they should be harmonised into one mandatory national standard.

In 2008, the Council of Australian Governments (COAG) agreed with the Productivity Commission that the Commonwealth should assume responsibility for the making of permanent product safety bans and standards under the TPA, while the States and Territories should retain powers to issue interim product safety bans. In short, there was agreement to a 'one law, multiple regulator' model which means that permanent bans and mandatory standards would only be made by the Australian Government (currently through the powers of the TPA), with the ACCC being responsible for the development of the standards in consultation with the States and Territories under the new Australian Consumer Law (ACL). The Australian Consumer Law Bill No 2 (the ACL Bill) contains the provisions relevant to product safety. This Bill is currently before Parliament. Assuming this Bill becomes law, all current product safety standards at State and Territory level will lapse from 1 January 2011, unless adopted at the Commonwealth level during 2010.

The development of any standards by the ACCC needs to be consistent with the COAG Principles of Best Practice Regulation and subject to scrutiny by the Office of Best Practice Regulation. These include establishing that there is a case before addressing a problem and assessing the costs and benefits of a range of regulatory and non-regulatory options.

The analysis and consultation set out in this RIS highlights the risks associated with corded internal window coverings and the need for regulation. It supports the decision to harmonise current State/Territory regulation by developing a mandatory national product safety standard.

2. PROBLEM

2.1. What is the problem being addressed?

Corded internal window coverings are currently regulated in all States and Territories under consumer protection legislation (discussed further in section 3). However, these regulations will cease to have effect when the harmonised product safety system commences (effectively this means that the State based regulations will lapse), currently anticipated to occur on 1 January 2011. As per the COAG agreement the ACCC is considering introducing a mandatory standard under the TPA to fill the regulatory gap left by the State and Territory regulations ceasing.

Corded internal window coverings, including blinds and curtains, which are raised, lowered, opened or closed, by means of an exposed looped pull cord or cords are commonly used in residential premises where young children are present. If cots are placed near a window, infants may be able to pull nearby window cords into the cot and get their necks entangled in them. Toddlers and older children can become entangled in window cords when playing or attempting to look out a window.

The products are a recognised safety hazard, which has been exacerbated by the increased prevalence of corded internal window coverings, particularly in domestic dwellings. Home designs have changed over the last 20-25 years with an increased use of window walls and openings and an increase in the availability of blinds and window coverings that are “full length”, such as vertical blinds. These window coverings utilise cords and “winding” systems to operate the blinds. In many cases the blind cords are long and looped and hang to within 30 cm of the floor, a position easily accessible to young children. Infants and preschoolers are unaware of the danger of these cords, as are many parents and carers.

The National Coroners Information Systems database records at least 10 cases of Australian children who have died from strangulation by internal window covering cords since 2000. There is limited data available on injuries.

As discussed below, in recent years all States and Territories have developed regulations for internal window coverings. For the most part, these regulations are very similar in their scope and requirements.

Unfortunately, data indicating whether these regulations have been effective are not available. There are three reasons for this:

1. The regulations can, by their nature, only apply to products sold since the regulations were passed. Due to the longevity of the product's life (internal window coverings are often in place for 20 or more years), the number of post-regulation products is only a small proportion of all of those in existence.
2. Coroners do not record in their reports on when the product associated with the death was purchased and/or installed. It is therefore impossible to determine whether or not the product in question was a regulated or not.
3. In addition, the data obtained by the ACCC is drawn from the National Coroners' Information Service. While this is the most authoritative and detailed source of information available, there is generally a delay of several years between a death and the Coroner's findings being released and included in the database.

Therefore even if a reduction in deaths was noted following the regulations coming into effect, it would be difficult to tell whether or not there was a causal relationship between the two.

The US CPSC has reported there were 200 deaths attributed to blind or curtain cords between 1991 and 2005,¹ and that there have been five deaths and 16 near strangulations associated with Roman shades since 2006, and three deaths in roll-up blinds since 2001.² There are regular recalls of these products due to safety risks both in Australia and overseas. The most recent in Australia was in July 2009,³ and the most recent overseas in June 2010.⁴

These deaths and injuries have mainly been caused by looped pull cords (also looped bead chain or flexible looped device) on window coverings, If these are long enough, they can accidentally become wrapped around the neck of a young child and cause restriction of their airway and/or cut off the blood supply to their brain. Compression of the major blood vessels within the neck, possible restriction of the airway, pressure on the vagus nerve, or a combination of all of these mechanisms can occur very rapidly. Once the blood supply to the brain is cut off, unconsciousness can occur within a few seconds and death can occur within minutes. Once unconscious, the child's body will then be suspended with its weight against the ligature. It is inevitable that an unconscious child in this situation will die unless human intervention relieves the ligature pressure on the neck⁵. Even if an unconscious child is revived, he/she may suffer severe brain damage and require ongoing care. The strangulation hazard becomes more pronounced if the cord is looped and near the floor.

¹ US CPSC Website 20 October 2005
<http://www.cpsc.gov/CPSCPUB/PREREL/prhtml06/06014.html>

² US CPSC Website 7 April 2010.
<http://www.cpsc.gov/CPSCPUB/PREREL/prhtml10/10077.html>

³ <http://www.recalls.gov.au/content/index.phtml/itemId/967829>

⁴ IKEA Recalls Roller Blinds, all Roman Blinds and all Roll-Up Blinds Due to Risk of Strangulation
<http://www.cpsc.gov/CPSCPUB/PREREL/prhtml10/10261.html>

⁵ SA Coroners Offices Inquest Findings, December 2008 -
http://www.courts.sa.gov.au/courts/coroner/findings/findings_2008/esposito.finding.htm#_ftnref1

In addition to existing State and Territory regulation, there have been a number of education campaigns run over the years to alert the public to the dangers of curtain and blind cords. There have been several education campaigns to alert the public to the dangers of corded internal window coverings. In 2003, the Australian Government Department of the Treasury considered that a public awareness campaign rather than regulation was the best way to alert parents and childcare workers to the strangulation hazards of looped window covering cords and prevent deaths. The main considerations were that:

- a mandatory standard would only apply to window coverings supplied in the future;
- new products were being redesigned which may eliminate the problem;
- problems were identified in the safety specifications incorporated in State and Territory regulations; and
- there were already millions of Australian homes with potentially unsafe window covering cords that should be addressed (risks inherit in the existing stock of blinds).

In December 2003, the Treasury and the Department of Health and Ageing jointly launched a national awareness campaign. As part of the strategy, a *Safety Alert! Blind & Curtain Cords* brochure⁶ and poster⁷ were produced and distributed across Australia through maternal and child health centres; childcare centres; family day care workers; State and Territory consumer protection agencies; Kidsafe offices; and blind and curtain shops.

In addition to the national awareness campaign, the Treasury approached the various window covering industry bodies to encourage national compliance with the NSW mandatory standard.

Another education campaign was run jointly by the ACCC and States and Territories from December 2009 – February 2010. The campaign aimed to enlist suppliers, supplier intermediaries, consumer intermediaries, landlords, real estate agencies, housing providers and the media in spreading the message and motivating people to check and fix their blind and curtain cords. The key message of the campaign was:

Loose blind and curtain cords can kill

Fix them out of reach so the kids are out of danger

⁶ Blind and Curtain Cords Safety Alert Brochure , ACCC - 16 October 2007
<http://www.accc.gov.au/content/item.phtml?itemId=801255&nodId=c0dbcc894349a1e121e47e292df51f18&fn=Blind%20and%20curtain%20cords%E2%80%94safety%20alert.pdf>

⁷ Safety Alert Poster Blind and Curtain Cords, ACCC & DOHA – 16 September 2008
http://www.accc.gov.au/content/item.phtml?itemId=843109&nodId=105d80c334f2090ea9981fed975c8a24&fn=Blind&CurtainCordSafety_Poster_02_05.pdf

The two main focuses were distributing brochures and a campaign in online, television and print media. Since the start of the campaign, over 130,000 brochures have been ordered.

Unfortunately, despite these education campaigns, there are continuing reports of deaths and injuries to children in spite of the action being taken by the Commonwealth, States and Territories. It is understood that these incidents have involved both pre and post mandatory standard installations.

2.2. Is there a regulation currently in place?

As noted above, blind and curtain cords are currently regulated under consumer protection legislation in all States and Territories. NSW was the first jurisdiction to implement a regulation, in 2002.⁸ The NSW Fair Trading Minister stated at the time that these mandatory design changes would prevent looped cords being used in all new household blinds.

The NSW Government has since repealed this regulation and introduced the NSW Fair Trading Regulation 2007 - Corded Internal Window Coverings⁹ (The NSW Regulation).

The NSW Regulation is partly based on the American National Standard for Safety of Corded Window Covering Products ANSI/WCMA A100.1-1996. Essentially, it requires all interior window coverings (curtains, shades, blinds, traverse rods, tracks or similar products) operated by a looped cord, looped bead chain or flexible looped device satisfy the following elements:

- carry warning labels or a hang tags;
- be accompanied by written safety information (except custom-made products for professional installation); and
- be designed so that any exposed looped cord (or similar) cannot be within 1600mm from the base of the window covering when the product is fully lowered (unless fitted with a safety device).

Since 1 September 2002, all other States and Territories have introduced similar regulations to those in NSW. These regulations are outlined in Table 1 below. For the most part, these regulations are very similar in their scope and requirements.

⁸ Fair Trading (General) Regulations 2002 (Division 19, Reg. 74a-c) Repealed
http://www.austlii.edu.au/au/legis/nsw/repealed_reg/ftr2002263/index.html#s80

⁹ New South Wales Fair Trading Regulation 2007 - Corded Internal Window Coverings
[http://www.fairtrading.nsw.gov.au/Businesses/Product_safety/General_products/Interior_curtains_blinds_and_tracks.html#Corded internal window coverings General Regulation](http://www.fairtrading.nsw.gov.au/Businesses/Product_safety/General_products/Interior_curtains_blinds_and_tracks.html#Corded%20internal%20window%20coverings%20General%20Regulation)

Table 1: summary of current regulations of corded internal window coverings

Jurisdiction	Title	Date of effect
ACT	Fair Trading (Consumer Product Standards) Amendment Regulations 2004	23 July 2004) Repealed and replaced by the Fair Trading (Consumer Product Standards) (Corded Internal Window Coverings) Standard 2009 (No 1).
Northern Territory	Prohibition of supply of goods	13 February 2009
Queensland	Fair Trading Regulations 2001 (as amended)	3 February 2006
South Australia	Declaration of Dangerous Goods	27 January 2009
Tasmania	Sale of Hazardous Goods Order 2004	6 October 2004
Victoria	Ban prohibiting the supply of dangerous goods	31 December 2008
Western Australia	Consumer Affairs Act 1971 Order (Curtain Blind Cords)	14 January 2004 (amended 5 April 2004)

There are inconclusive data at this point to assess whether these regulations have resulted in fewer deaths and injuries.

In addition, the regulations that have been put in place can only apply to products sold since the regulations have been in force (i.e. the regulations are applied prospectively). These only make up a small percentage of the window coverings that exist. The vast majority were installed prior to the regulations, and it is not clear how many of these have been upgraded to comply with the standard. However given that window coverings often remain in place for upwards of 20 years, it is likely that many risky products that do not meet the above standards are still in the market place and could continue to pose harm and risks to members of the community.

The adoption of mandatory standards in Australian jurisdictions has enabled experience with their implementation, enforcement and effectiveness to be assessed. Through research and consultation with stakeholders, the ACCC has become aware of a number of issues and concerns that have been raised about the effectiveness of the existing standards. These are discussed below.

Floor – the current mandatory standard requires that a looped cord must not be less than 1600mm above the lowest point that the base of the covering can reach when it is in its fully lowered position. It is understood that this requirement was introduced because of difficulties in establishing a suitable legal definition of floor level as a point of measurement. Unfortunately, the specified requirement is not tenable where the lowest point of window coverings when installed is some distance above floor level because this may result in the cord being out of reach of an adult, or even above ceiling height.

Cord tension devices - the WA Consumer Product Safety Committee is currently reviewing their regulation and in particular concerns regarding cord tension devices. The current mandatory standard requires that a cord tension device must be fixed and immobile, but does not provide any requirements or tests to determine this. The regulation makes reference to Clause 6.5.4 of ANSI A100 with regards to this issue. This clause appears to limit the access of the looped cord to a child. However, it does not seem to suggest that it needs to be designed in a fashion to prevent a child from pulling the cord out of the cord tension device.

ANSI A100 – refers to the American National Standard for Safety Corded Window Covering Products, numbered ANSI/WCMA A100.1-1996. This was recently superseded by ANSI/WCMA A100.1- 2009 and it may be appropriate to incorporate a reference to the most recent standard. Alternatively, it may be more practical to specify the requirements in the mandatory standard.

Installation instructions – while there is a prima facie case for seeking to regulate the installation of corded internal window coverings to help ensure that the identified safety hazards are addressed in installations, the TPA does not currently include provisions for regulating services such as the installation of window coverings. Under the new Australian Consumer Law, the ACCC will have the power to regulate product related services. Should the Bill become law, the ACCC will assess the feasibility of regulating the service of installing corded internal window coverings under these provisions.

Definition of internal blinds – there has been some confusion with regards to the definition of some types of blinds, particularly bamboo style blinds, which have been labelled ‘for external use’. These blinds can also be used internally. As such, the definition may need to be expanded to capture these types of blinds.

Roman style blinds – Jurisdictions differ on whether these blinds – which have looped cords at the back of the blind – are captured by the mandatory standard. It can be argued it is possible for children to easily access the rear of a particular blind and come in contact with an exposed looped cord. There are unverified reports that children have hidden behind these blinds whilst playing (e.g. hide and seek) and suffered injuries.

Commercial premises – the question has been raised whether commercial premises should be exempt from corded internal window covering regulations. As children may be present in commercial premises it is considered that the hazard needs to be addressed in both domestic and commercial premises.

Given these concerns, the ACCC concluded that any new national standard under the TPA should not simply adopt a current State/Territory regulation as a national model. Instead it should address these concerns so that any new regulation is best practice.

In summary, the stakeholder consultation process has identified:

- consumers perceive the risks of harm from corded internal window coverings to be high and this risk is currently addressed by regulation;
- information about the extent of the harms and risks is limited;
- existing State based regulations will be sun-setting; and
- there is evidence to indicate that elements of the existing standards cannot be practically met and that this has the potential to compromise the practical application and effectiveness of applying current regulations (within and across jurisdictions).

Together, these concerns have motivated the proposal to develop a new standard which would address these stakeholder concerns.

3. OBJECTIVES

3.1. *What are the objectives of proposed government action?*

The Government's goal in the case of corded internal window coverings is to develop a cost-effective national strategy to replace current State and Territory regulation and reduce the risk of serious child injuries and deaths associated with the use of these types of products. It should be emphasised that regulation or action will not necessarily eliminate the risks. Some risk will remain.

4. OPTIONS

There are four options that are being considered at the national level to reduce deaths and injuries associated with window covering cords.

- **Option 1** –“Do nothing”: allow current regulations to lapse and do not impose a national mandatory standard;
- **Option 2** – Industry self-regulation;
- **Option 3** – Consumer education; or
- **Option 4** – Government regulation through a national mandatory standard

Banning the supply of the products is considered not a viable option as it would unnecessarily eliminate many window covering products from the market in order to address the problem (and would be unlikely to attract community or industry support).

Any government regulation would cover cord or chain operated internal window coverings (blinds and curtains), and would apply to products installed both in domestic dwellings and business premises. It would be based on the current mandatory standards in place in all States and Territories.

5. IMPACT ANALYSIS

5.1. *Who is affected by the problem and who is likely to be affected by the proposed solution?*

Any response to the problem identified in this paper involving the safety of corded internal window coverings would affect Australian businesses involved in the supply of window coverings (importers, distributors, retailers, and installers), consumers and government. In the context of blind and curtain installations, consumers may be defined as any person or business that owns, rents or leases a private or commercial property.

Structure of the industry

The ACCC understand that the industry has two major sectors:

- ready-made products, sold mainly by major national retailers; and
- custom-made products, supplied by both national and local firms.

Detailed information on the structure of the industry is difficult to obtain. However, the ACCC notes that as this industry is already regulated in every jurisdiction, a change to a national regulation is unlikely to have an effect on industry structure.

5.2. *Costs and benefits of each option*

Option 1: “Do nothing”: allow current regulations to lapse and do not impose a national mandatory standard

If state based regulations are allowed to laps there will be no immediate regulation in place to address the potential risks and harms identified. Potentially, the harms and risks could be addressed ‘outside’ a regulatory option through existing product liability provisions in the TPA (see discussion below).

Costs

Costs to consumers

While businesses may continue to supply products that comply with the previous standards initially, it is possible that at least some will not take safety requirements into account when deciding what products to supply. Consumers may not be aware of the dangers of the products they are purchasing, and there may then be an increase in deaths and injuries resulting from the products.

It is very difficult to estimate how the rate of deaths and injuries would change absent regulation, and therefore to quantify these costs. Many varying estimates of the ‘dollar value’ of a life have been made by overseas and Australian research experts. Although the range of estimates contained in the literature is quite wide, it suffices to say that all experts attribute a fairly significant dollar amount to the value of a human life. In Australia, a 2003

article entitled “*The value of life and health for public policy*”¹⁰ estimated the value of a life lost as being in the range of A \$3.5 to 6.6 million. More recently a Guidance Note by the Office of Best Practice Regulation on ‘Value of a Statistical Life’ illustrated the difficulties in providing a meaningful valuation, given that the number of deaths / injuries which might be prevented by a measure will always be hypothetical, as the nature of the assumptions involved is invariably uncertain.¹¹ However, in its Guidance Note, the Office of Best Practice Regulation suggests that the value of \$3.5 million in 2007 dollars be used in assessing the statistical value of a human life for the purposes of developing a RIS.

The valuation of the prevention of injury is similarly problematic. The Office of Best Practice Regulation also notes that the Australian Institute of Health and Welfare has published disability weights for most diseases and injuries. However, given the range of injuries that may occur due to corded internal window coverings could vary from bruising to severe brain injuries, it is difficult to estimate the cost to the community.

Assuming that the rate of deaths and injuries would increase to a level similar to the US (where the product is not regulated), the likely death and injury rate would be around one death and one near-strangulation per year.¹²

Costs to industry

Those businesses that supply ready-made products are likely to continue to supply products that comply with the standards initially, at least until they use up any inventories.

In the future, costs to suppliers of both ready-made and custom products may decrease slightly if they are able to design and/or supply products that do not have to comply with safety regulations. Discussions with industry have revealed that the sunk cost of initially complying with State/Territory regulations was around 5 per cent to develop compliant fittings and include safety warnings. The cost of ongoing compliance is estimated to be around 2.5 per cent of the cost of the product. This cost may fall in the presence of no regulation.

Costs to government

Government would be subject to criticism for failing to protect the lives of children. The fact that States and Territories have imposed mandatory standards, and have requested that the Australian Government do so when they no longer have the power indicates the level of concern with these deaths and injuries. Should industry choose to supply products without safety features, there may also be an increase in health costs from dealing with the injuries that may result. There is limited information about the potential size and magnitude of these costs..

¹⁰ Abelson, P., 2003, *The Value of Life and Health for Public Policy*, The Economic Record, Vol. 9, June 2003, pp. 2–13.

¹¹ See <http://www.finance.gov.au/obpr/docs/ValuingStatisticalLife.rtf> .

¹² Calculated by applying the US death and injury rates per head of population to Australia’s population.

Benefits

Consumers and industry may benefit from slightly lower prices and an increased range of products. Governments (both Commonwealth and State/Territory) would not incur the costs associated with enforcing any regulation. Based on previous ACCC and State/Territory Fair Trading Office experience with enforcing similar regulations, these are estimated at about \$80 000 p.a.

Option 2: Industry self-regulation

Costs

Costs to consumers

As would be the case with no regulation, ineffective industry self-regulation may result in a small reduction in costs to consumers who buy products that do not meet safety requirements. However, consumers may not be aware of the risks associated with unsafe products, and there may be an increase in deaths and injuries as a result. Theoretically, consumers could seek to change manufacturers' behaviour by seeking compensation for these deaths and injuries through product liability claims under Part VA of the TPA and/or common law negligence claims. However, this option would only be available once a child has been killed or injured. Stakeholder consultation has indicated that the community would not find it acceptable to rely on more children dying to provide an incentive for manufacturers to supply safer products.

Costs to industry

As the product is already regulated in all States and Territories in Australia, industry should currently be supplying products that comply with the mandatory standards in force. As such, the only additional costs to industry would be for a possible campaign to promote voluntary compliance with safety standards. While stakeholders did not provide any explicit feedback on the costs of such a campaign, previous ACCC experience in working with industry indicates that this would cost about \$10,000 p.a. for the distribution of promotional materials to suppliers. Any direct costs which are incurred by businesses through self-regulation would be passed onto consumers as part of the product price, but the distributed costs should not produce any noticeable increase in product prices. To the extent that any suppliers chose not to comply with self-regulation and supplied products without required safety features, there could be a very small cost saving, but this is unlikely to translate into any noticeable difference in prices for consumers.

Costs to government

Government would be subject to criticism for failing to protect the lives of children. Where industry self-regulation proved ineffective, there would be a continuing cost to the community involving the supply of health care and other government services as a result of child injuries associated with exposed

window covering cords. Current data on hospitalisations and other medical interventions is limited and would not enable a clear cost to be calculated.

Benefits

Consumers and industry may benefit from an increased range of products. Under self-regulation, the government would not incur enforcement costs which would be applicable if a regulatory option were to be adopted, an estimated saving of about \$80 000 p.a. This estimate is based on previous ACCC and State/Territory Fair Trading Office experience with enforcing similar regulations. There could also be continuing unquantified savings to government in reduced health care costs if self-regulation was successful.

As all the State and Territory jurisdictions already have mandatory standards in place it is difficult to ascertain the effect industry self-regulation would have in achieving the desired outcomes. However, there are indications that suppliers would not adhere to a voluntary strategy for universal compliance with safety standards:

- To date the industry has not been able to coordinate agreement on solutions to ensure that exposed window covering cords are not supplied;
- The supply of blinds and curtains includes a wide range of businesses that do not form a cohesive group covered by one industry association;
- There are cases where suppliers have not adhered to the mandatory safety standards invoked by the States and Territories, which supports the view that it is unlikely that suppliers as a whole would effectively self-regulate.

Option 3: Consumer education

As mentioned above, there have been two education campaigns in recent years. The most recent interim campaign ran from December 2009 to February 2010, however, the Standing Committee on Consumer Affairs (SCOCA) has not provided any further funding at this point.

Information would also be provided on the Product Safety Australia website,¹³ State/Territory Government websites and potentially through partner organisations such as Kidsafe. An education campaign would presumably support a strategy to deal with the old stock of non-compliant goods in the market: it would inform the consumers about the risks associated with non-compliant goods currently installed in dwellings. This strategy will not necessarily eliminate the risk.

¹³ A website administered by the ACCC on behalf of all general consumer product safety regulators, launched in April 2010. See <http://www.productsafety.gov.au/>

The effectiveness of education campaigns is not known. However, prior to the most recent campaign launch, pre-campaign research took place across Australia. The key aims were to understand the level of awareness of blind and curtain cord dangers and evaluate the awareness of and likeliness to purchase preventative devices. Results indicated that approximately 90% of respondents were aware of blind and curtain cord dangers but less than half were aware of preventative devices. Over 85% of Australians indicated that they would purchase preventative devices to fix cords out of reach. It is hoped that some post-campaign research will give an indication of how effective the campaign was.

The capacity of educational activities alone to adequately address the ongoing problem of deaths and injuries is considered to be limited. The promotion of safe window coverings to consumers is considered to have a major impact on the safety of the products, particularly for existing installations, but this needs to be supported by safety standards that ensure that new installations are safe.

Costs

Costs to consumers

Government funded consumer education in relation to window coverings needs to be well targeted to parents, carers and consumers if it is to be effective in preventing deaths and injuries. It would need to be directed to product point-of-sale and to child carers through published child safety guidelines. However, consumer education campaigns cannot guarantee that parents and carers will necessarily receive and act on safety advice, particularly if products are being supplied without desired safety features and supporting product safety information. Accordingly, consumer education by itself is likely to leave many children exposed to hazardous window covering installations, with an increased risk of death and injury.

In order to achieve improved safety outcomes for existing corded internal window coverings, a number of factors need to be taken into account, including:

- Risk of injury awareness - education for consumers including advice on how to make existing installations safe.
- Safety awareness - information for consumers on the maintenance of tension devices.
- The impact, effectiveness, level of cooperation and costs involved in respect of implementing any/all of the above.

The costs of this option to consumers are their time and effort to understand the hazard awareness material, and the possible cost of correcting existing unsafe installations.

Costs to industry

Industry would be expected to support consumer education by making education materials such as consumer brochures available at window coverings

point of sale. The likely impact on product costs would be negligible because businesses may recover some of the costs through their product pricing.

Costs to government

Government would be responsible for direct costs involved in funding any consumer education campaign it undertakes. Based on the cost of the recent blind and curtain campaign (discussed in section 2 above) and ACCC experience with similar campaigns, it is anticipated that a consumer education campaign would cost approximately \$90,000 to \$120,000 over a year, although the costs of any specific campaign depend on the nature and extent of the educational activities envisaged.

Benefits

Information would be available to consumers on the risks associated with exposed window covering cords, particularly existing products that do not comply with the mandatory standard. The campaign would also inform consumers on how to minimise risks associated with these products. The benefits of consumer education (where well-targeted) are likely to flow to a wider class of consumer than simply those purchasing window coverings to be installed by a professional installer. Such programs would benefit consumers who might purchase window coverings to install themselves, and could also help to alert people to check existing installations, and take steps to reduce any hazards they find.

Consumer education also has the potential to reduce injuries and deaths by raising consumer and industry awareness of the risks associated with exposed window covering cords. To the extent that the education campaign is effective, consumers and government would benefit from the commensurate reduction in health care and other support costs associated with deaths and injuries. As discussed above, the reduction in costs is unquantifiable.

Option 4: Government regulation

The option to regulate the supply of window coverings under the product safety provisions of the TPA would be implemented as a replacement for current State and Territory regulations for these products.

As discussed in section 3 above, the ACCC notes that a number of concerns have been raised about the existing State/Territory standards. In the interests of regulatory best practice, the ACCC has not based its analysis of option 4 on adopting a current State/Territory standard, but on developing a new standard that is similar to existing State/Territory standards, but addresses the concerns that have been raised by stakeholders about these. For example:

- *Distance from floor:* the standard requires that instructions are included that specify the covering must be installed in such a way that the cord cannot form a loop at 220 mm or longer at a height of less than 1600 mm above floor level, rather than – as many of the State/Territory standards

required – above the lowest point that the base of the covering can reach when in its fully lowered position. This removes the possibility that the cord will have to be installed above the reach of an adult, or even above ceiling height.

- *Cord tension devices*: the proposed standard specifies the force that any device designed to retract, tension or secure a cord must be able to withstand, and a test to determine this.
- *ANSI A100*: By not referencing an external standard (eg ANSI A100), this enables both suppliers and consumers to understand the requirements of the standard without having to purchase additional documents. It also removes the issue of having to update the standard when an external standard is revised.
- *Products covered*: the proposed standard includes all corded internal window coverings, including Roman blinds and those in commercial premises. These have not necessarily been captured by existing State/Territory standards, but can present at least as significant a hazard as other products that have been covered.

Under this option, the Commonwealth would be responsible for establishing and maintaining the new standard, while the respective State and Territory regulations would be repealed or lapse. The Commonwealth (ACCC), States and Territories would have responsibilities for enforcing the new standard through product surveys and compliance enforcement actions.

In accordance with usual practices, the introduction of a new mandatory TPA safety standard would be supported by an awareness campaign to promote industry compliance with the new standard and to explain to consumers the hazard and the corresponding remedial safety features for blind and curtain installations.

Costs

Costs to consumers

Government regulation would ensure that new products entering the market would continue to meet the general requirements of the existing mandatory standards and so maintain a reasonable level of product safety for consumers. A national regulation would also overcome difficulties and differences in State and Territory regulations, resulting in marginally reduced product costs.

It may also conceivably encourage manufacturers to cease supplying window coverings with exposed cords and look to supplying alternate operating systems.

Costs to industry

The costs for national suppliers of both ready-made and custom-made products are likely to decrease due to the need to only comply with one mandatory

standard, rather than a different standard for each jurisdiction they operate in. Comments received from national suppliers supported this view. Because the regulation would not take effect until current State and Territory regulations cease (anticipated at the end of 2010), suppliers will have several months to run down current inventories and prepare for working under the new regulation.

The costs for local suppliers of custom made products are unlikely to change significantly. There may be a marginal increase initially to adjust to the requirements of a new mandatory standard, but as the proposed mandatory standard does not differ significantly from those currently in force throughout Australia, and these suppliers are producing each of their products on a custom basis, it is likely that they would adapt quickly to the new requirements.

As the products are currently regulated in all jurisdictions, it is likely that the impact of moving to a national regulation would be the same in all States and Territories.

It is not anticipated that that this proposal will have any impact on trans-Tasman trade, given the application of the *Trans-Tasman Mutual Recognition Act 1997*.

Costs to government

The introduction of a mandatory safety standard would result in a cost to government in the administration and enforcement of the new mandatory requirements. These costs could be lower than the costs of administering different Standards as applied under the current state based system. Costs include the establishment and review of one regulation only which will apply across all jurisdictions, the associated education campaign to promote awareness of the requirement in the industry and the community and enforcement activities such as market surveys and possible legal proceedings to ensure compliance.

Government would incur costs in the establishment of a mandatory safety standard and for the ongoing enforcement of the mandatory requirements through market monitoring. Based on previous experience with establishing and enforcing product safety regulation, these costs are estimated at a “one-off” cost of \$10,000 for developing the standard and ongoing costs of around \$40,000 per annum for market monitoring (estimates based on ACCC data). These costs would be incurred by the Commonwealth, but would be offset by savings to the States and Territories when their regulations are replaced by a TPA safety standard.

The introduction of the proposed safety standard would be supported by an extensive consumer awareness campaign, with particular attention being made to existing window coverings. As noted under option 3 (consumer education) above, the cost of a safety campaign might be about \$90,000-\$120,000 over a year. The ACCC has a number of similar consumer education publications designed to promote awareness of other mandatory safety standards. Based on previous ACCC experience – including during the recent blind and curtain cord education campaign – the demand for information brochures on window

coverings is likely to be around 150,000 copies per year, at an estimated annual cost of \$7,500. The cost of adding the information to the Product Safety Australia website would be about \$1,000 and the cost of advertising in magazines to raise awareness of the safety standard and safety hazards would be about \$5,000 pa.

In summary, there would be approximately \$100,000 to \$130,000 of initial costs and ongoing costs of \$52,000 per annum.

Benefits

The proposed safety standard would benefit consumers by ensuring that all new corded internal window coverings meet the requirements of a single national mandatory standard in manufacture and supply. The regulation would ensure that all new window coverings on the market comply with key safety requirements, thereby maximising the potential for these safety features to reduce injuries and deaths

The introduction of a mandatory safety standard would be supported by a consumer education campaign similar to that described above. The campaign would advise consumers and suppliers of the mandatory standard and provide advice on how existing window coverings with exposed cords may be made safe.

To the extent that regulation reduces information gaps to raise awareness about product risk, and supports fewer deaths and injuries, this strategy could support savings to consumers and government. As outlined above, the potential benefits supported could be between \$3.5 million and \$6.6 million depending on the value assigned to a life saved. Consultation suggests that stakeholders strongly support that continued regulatory action be taken to mitigate the identified risks.

6. CONCLUSION AND RECOMMENDED OPTION

This Regulatory Impact Statement assessed four options

- **Option 1** – “do nothing”: allow current regulations to lapse and do not impose a national mandatory standard;
- **Option 2** – Industry self-regulation;
- **Option 3** – Consumer education; or
- **Option 4** – National Government regulation through a mandatory standard.

Option 1- “Do nothing”: allow current regulations to lapse and do not impose a national mandatory standard

Option 1 is not broadly supported because:

- There is a recognised hazard associated with corded internal window coverings, with at least 10 children dying in Australia since 2000.
- State and Territory jurisdictions introduced their present regulations in response to concerns about the strangulation hazard and recommendations made by a number of State coroners.
- The hazard associated with corded internal window coverings is often not foreseeable by parents and carers of young children.
- Stakeholders have informed the ACCC that they expect some form of regulation to continue (lack of public awareness).

The ACCC also notes that the consultation has demonstrated there is an expectation from both consumer and industry groups that some form of regulation will continue to exist following current State and Territory regulations ceasing to have effect.

Option 2 – Industry self regulation

A self regulatory regime is likely to be only partially effective in addressing the hazard because the fragmented nature of the supply sector is not conducive to establishing a universal voluntary commitment to safety standards. Even with mandatory standards in place, industry has not always complied with the requirements, resulting in product recalls and prosecutions¹⁴. It is also noted that there have been reports of deaths and injuries to children still occurring.

Option 3 – Consumer education

Option 3 alone is unlikely to be entirely effective when the risks are inherent in the product itself. In this instance, while consumer education can inform consumers about the risks, education will not be entirely effective in reducing the risks associated with the features of the product which cause harm. Consumer education could mitigate the problem of lack of information about product hazard but would not eliminate the risks associated with the nature of the product itself. This risk would remain and could pose a real risk to the community.

¹⁴ Western Australia Department of Commerce, Media statement - 29 October 2009
http://www.docep.wa.gov.au/corporate/Media/statements/2008/October/Vertical_blind_company_fined_a.html

The hazard associated with corded internal window coverings is not always foreseeable by parents and carers of young children. Consumer education campaigns are seen as an important co-regulatory tool, but they have a limited reach and effective life. Education campaigns need to be reinvigorated from time to time if they are to continue to address ongoing safety problems.

Considering these issues, it is unlikely that consumer education would ensure that blind and curtain installations are safe. There is a common assumption among many consumers that all products on the market have been tested for safety, and not all consumers would recognise that they need to be vigilant about the cord hazard. Without market controls, consumers would be responsible for ensuring that they purchase blinds and curtains with the desired safety features.

Requiring warning statements on the products would ensure that the safety message is available to the consumer at the time the product is acquired and used. A hazard awareness campaign would be initiated in conjunction with a mandatory standard.

Option 4 – Mandatory national standard

A mandatory consumer product safety standard established under the TPA could be the most effective means of addressing the hazards associated with interior window covering cords. The economic and social benefits of reducing the incidence of death and injuries could substantially outweigh any direct or indirect costs involved. The ACCC also notes that the consultation has demonstrated there is an expectation from both consumer and industry groups that some form of regulation will continue to exist following current State and Territory regulations ceasing to have effect.

The cost of implementing the preferred option is estimated to be about \$52,000 p.a. and the costs of potential deaths and injuries which are likely to be avoided by the national regulation are estimated to be around \$3.5 - \$6.6 million p.a. depending on the value one assigns to the value of a life saved. There are additional, but minor, savings for manufacturers from a unified regulatory approach. Mandatory standards would continue to address the risks associated with new products but would not overcome the problem associated with 'non compliant' products.

In addition to government regulation, the ACCC would implement a consumer education and awareness campaign to provide information to consumers on the new mandatory standard, and the risks associated with exposed window covering cords, particularly existing product installations that do not comply with the mandatory standard. The campaign would also inform consumers on how to minimise risks associated with these products. The ACCC would also implement a campaign to make suppliers aware of the new mandatory standard and what they have to do to comply. As is the case with most mandatory standards, this will include supplier guides, information on the Product Safety Australia website, and potentially outreach activities through industry associations.

Any national mandatory standard should take into account past experiences with State/Territory based legislation and concerns raised by regulators, industry and other stakeholders. The proposed standard is at Attachment 1. It is a stand-alone instrument and does not reference the US standard ANSI A100. While it is closely based on the existing State and Territory standards, it does not simply adopt one of these as a national standard. This is because, as noted in section 3 above, a number of concerns have been raised about these standards. The proposed standard has been drafted to address these concerns, and to ensure that it is enforceable under the TPA.

The key elements of the proposed standard are that all internal window coverings having looped pull cords, (looped bead chain or flexible looped device) must be supplied with:

- a means to keep looped cords out of reach of small children; and
- product safety information that includes warning statements and instructions for safe installation and use.

7. CONSULTATION

The ACCC circulated this draft Regulation Impact Statement for consideration by around 40 interested parties, including:

- Manufacturers, importers, suppliers and installers of window coverings;
- State and Territory consumer product regulators and the New Zealand Ministry of Consumer Affairs;
- Child safety organisations and specialists, and
- Consumer stakeholders, parents, householders and users.

Interested parties were identified and emailed directly. In some cases follow-up phone calls were made to discuss the draft RIS and/or the party's comments.

Around 20 responses were received, with at least two responses from each of the sectors identified above.

The New Zealand Ministry of Consumer Affairs has been consulted in the development of this regulatory proposal, and no concerns about possible adverse effects on trans-Tasman trade or operation of the Trans-Tasman Mutual Recognition Arrangement have been expressed.

The ACCC has taken into account all submissions received from interested parties. A summary of these submissions is at Attachment 2.

8. IMPLEMENTATION AND REVIEW

Subject to issues raised through consultation, it is recommended that a consumer product safety standard, as outlined in attachment 1, be introduced as a regulation under section 65C of the TPA.

The new standard will take effect from 30 December 2010. This will give suppliers almost six months to adjust to the new requirements.

While some suppliers have indicated a longer period is preferable, any delay beyond this point would leave the product unregulated for the period between when the current State and Territory regulations sunset and any new regulation took effect. This would not be acceptable to the community.

Under Australia's Product Safety Harmonisation arrangements, the similar product safety regulations currently in force in all State and Territory jurisdictions will sunset at the end of 2010. In order to simplify arrangements for the replacement of the State and Territory regulations, it is proposed that the Commonwealth TPA mandatory standard take effect from 31 December 2010. The State and Territory mandatory standards would then remain active until the new Commonwealth mandatory standard comes into effect.

The standard would be reviewed within 5 years to ensure that it remains effective and relevant to the market.

9. ATTACHMENTS

1. Draft requirements of the proposed safety standard for corded internal window coverings
2. Summary of responses received to date.

Draft requirements of proposed safety standard

The proposed safety standard would be made as regulations under the product safety provisions of the Trade Practices Act 1974, and would come into effect from 31 December 2010.

The regulations would specify the following safety requirements for the supply of cord operated interior window coverings:

1. Product hazard warnings

A requirement for the provision of the following warning labels:

(a) products for retail sale shall be supplied with a warning label that is clearly visible on the product packaging at the time of supply stating:

“WARNING: CURTAIN AND BLIND CORDS HAVE CAUSED THE DEATH OF YOUNG CHILDREN AND MUST BE INSTALLED SO THAT THEY ARE NOT A STRANGULATION HAZARD. FOLLOW THE INSTALLATION INSTRUCTIONS.”

The warning shall be clearly legible, in red upper case letters of not less than 5 mm in height, on a white background.

(b) all products shall have a clearly legible printed label or swing tag attached to the operating cord of chain stating:

“WARNING: Young children have died by wrapping loose curtain and blind cords or chains around their necks. Secure cords or chains with tensioning devices or keep them out of reach by winding them around a cleat. Move cots and furniture away from window covering cords or chains.”

2. Installation instructions

A requirement that the product be supplied with installation instructions which include:

(a) a statement that to avoid creating a possible strangulation hazard for young children, the installed window coverings must not result in loose cords or chains that can be formed into a loop of length 220 mm or more at a height of less than 1600 mm above floor level; and

(b) practical instructions on how the installation can be completed to comply with the cord/chain safety requirements specified in (a); and

(c) reference to any installation components that may be required to complete the installation in accordance with the cord/chain safety requirements specified in (a).

Note 1: The purpose of (a) and (b) is to ensure the completed installation will:

(i) Prevent any loops or single strands of cord or chain longer than 220 mm being situated at less than 1600 mm from the floor when the cord or chain is not being used to operate the window covering.

(ii) Prevent access by young children to the cord or chain which could result in a loop of 220 mm or more being formed.

Note 2: It is not intended to prevent the use of cord or chain guides closer to the floor, provided the installation instructions together with the components supplied secure or tension the cord or chain in such a way as to prevent loops of 220 mm or more being formed.

Note 3: If cord or chain guides are installed closer than 1600 mm to the floor, they must be designed to prevent the cord or chain from being removed from the device by a child.

Note 4: A young child could unwind a cord or chain from a cleat if it is within reach.

Therefore, if a cleat is used it must be installed at least 1600 mm from the floor.

3. Installation components

A requirement that the product be supplied with any components that may be required to complete the installation in accordance with the cord/chain safety requirements specified in the installation instructions.

A requirement that any cord/chain retention fittings supplied for the product installation shall be designed to remain firmly attached when affixed to any structure nominated in the installation instructions when subject to a tension force of 70 N applied in any direction for a period of 10 seconds.

ATTACHMENT 2

Summary of submissions received to 30 June 2010

A draft Regulation Impact Statement proposing the regulation of blind and curtain cords was circulated for consideration by interested parties.

The draft RIS was issued on 7 April 2010 and a period of one month was provided for any interested parties who wish to provide written submissions to the ACCC on the proposed regulatory measure.

Thirteen written submissions on the draft RIS were received from a range of interested parties. There is wide support for the proposal to introduce a TPA regulation. The ACCC has reviewed the draft RIS in light of the comments received to formulate the final proposal.

Consultation Comment: Two suppliers felt that a combination of education and regulation was the best solution. They considered that people should be informed of the risks and take responsibility for educating their children about them. They felt that education would also help to educate people about older products that are still in use, but were designed without sufficient consideration for child safety.

They commented that many customers do not wish to have warning labels on cords or tie down points fitted as they “spoil” the look of the product just installed in their home. One supplier noted that building owners were often only prepared to accept what they saw as unnecessary child safety devices because of the existence of Government regulation.

The other supplier noted that they often return to customers’ homes to find that the customer has removed the labels following installation. Customers argue that children in their home will be properly supervised, and therefore not at risk, even though in the supplier’s experience children are often less supervised in the home than they are anywhere else.

They noted that conversely, commercial businesses do not have any issues with labels or tie down points, and are asking for them to be included.

One supplier noted that the main issue is how they can provide a product that has appropriate safety warnings and devices, but still looks good and appropriate. They are of the view that tie down points and labels should be required for curtains and vertical, Holland/roller and panel glide blinds, as these can be hidden from view relatively easily. They commented that the issue is most problematic for blinds, as curtains generally have the cord tied down via a pulley which is hidden out of sight.

In respect of Venetian blinds, they noted that the breakaway tassels used can often look “tacky and poor”, but suggested that if the lifting cord comes to a common tie off point about 300 mm down from the top of the blind to a single

cord, this can be aesthetically pleasing and work well. However, they noted that when the blind is lifted there would be excess cord lying around, although customers generally only open these blinds to clean the window before lowering them again.

The main issue is Roman, Austrian and pleated/honeycomb blinds, as these generally have excess cord lying around when they are open (which is most of the time). The cord can be stowed safely by wrapping it around the cleat to keep it out of the way, or a through installing a fixed chain lifting mechanism, although this typically costs between \$150-\$220 retail per blind. Given these costs, the supplier recommends that only the mandatory standard only requires labelling for these products. However, they note that there can be problems with where the label is affixed so it is visible but not so obvious that the customer simply removes it, and issues with ensuring the label will stay on and not damage the fabric.

Another supplier also noted the difficulties with developing a safe Roman blind. They proposed that these blinds in particular should be required to have a special warning both on the packaging and affixed to the product itself.

ACCC Response: The ACCC notes the proposal to impose different requirements on different types of window coverings. However, it considers that removing the requirement to provide instructions and components for Roman, Austrian and pleated/honeycomb of blinds is not effective, because – as noted by one supplier– only imposing a labelling requirement is unlikely to properly address the hazard. In particular, the ACCC notes that there are unverified reports of these particular blinds being implicated in deaths and injuries (see section 3.2 above).

On reviewing the proposed labelling requirements, which were primarily aimed at people installing the products, at it is accepted that there is a case for all blinds and curtains to carry a consumer warning advising of the child strangulation hazard. This has been added to the proposed regulation as a requirement for a label or swing tag attached to all blinds and curtains being supplied.

Consultation Comment: Another supplier supported the option of consumer education, but noted that this had not been sufficient to date, and it was difficult to maintain ongoing awareness.

ACCC Response: The effectiveness of consumer education campaigns to adequately address the ongoing problem of deaths and injuries is considered to be limited. The promotion of safe window coverings to consumers is considered to have a major impact on the safety of the products, particularly for existing installations, but this needs to be supported by safety standards that ensure that new installations are safe.

Consultation Comment: A submission from a community group commented that warnings and tags do not work, and instead efforts should be focused on:

- removing looped cords from the products;
- educating suppliers and the community of the dangers of the product; and
- imposing a requirement in the standard that installers hold a certificate of competency from a registered training organisation using a nationally recognised training package.

The group also felt that ANSI A100 should be adopted as the mandatory standard. However, a major supplier applauded the decision to develop a stand-alone mandatory standard rather than require suppliers to purchase an American standard to make sense of their obligations in Australia.

The group recommended that a levy of 0.5-1% be placed on the industry to fund research and development of safer products.

A major supplier also supported the introduction of a mandatory standard for the installation of the products once this power is available.

ACCC Response: Removing looped cords from window coverings would be a longer term solution to the identified safety problem. The proposed mandatory standard is supported by child safety organisations and provides an immediate response, taking over from the various current State regulations.

The proposed mandatory standard is a stand-alone document that does not reference ANSI A100, but is generally consistent with it. However, at present there is no power to impose mandatory standards in respect of services under the TPA, so it is not possible to impose a qualification requirement on installers. The ACCC also notes that any proposal to impose a levy is beyond the scope of this RIS.

Consultation Comment: A major national retailer noted that there are no accredited testers of blind and curtain cord arrangements and requested consideration of where suppliers can have products tested.

ACCC Response: The new regulations will endeavour to make the new safety requirements simpler than previous requirements, thereby reducing the need for specialised testing.

Consultation Comment: A retailers' association and a major national retailer made the case for establishing transitional arrangements to allow the sale of products complying with either the current State regulations or the proposed TPA regulations for a period of at least 12 months. This would allow the sale of existing packaged retail stock (that complies with State regulations) without incurring losses through reprocessing/relabelling or scrapping of products and allow the progressive introduction of new stock complying with the TPA regulation.

Another major retailer suggested that a start date of 1 March 2011 would improve compliance, as a start date of 31 December was just after the peak season for installations and when many staff were on leave.

ACCC Response: It is agreed that transitional arrangements should be established to minimise unnecessary disruption to the market. It is considered that it would be complex to introduce the proposed transitional arrangements in the proposed TPA regulations referencing to both Commonwealth and various State requirements, but the same effect can be achieved for this and other harmonised safety standards through an administrative agreement between the ACCC and State jurisdictions.

The proposed regulation will need to take effect in 2010 under the Trade Practices Act or be deferred until the new ACL becomes law in 2011, which would delay implementation of the new requirements by at least 6 months.

Consultation Comment: A child safety organisation and a major national retailer noted that the suggested review of the proposed TPA regulations after 5 years would be too long and the regulations should be reviewed sooner, say after 1 year.

ACCC Response: The operation of regulations such as those proposed are routinely monitored from the beginning to identify and address any implementation problems. The specified 5 year period is for a formal review to look at the longer term needs and form of the regulation.

Consultation Comment: Two major national retailers and a child safety organisation recommended clarification of some technical requirements of the proposed regulations.

ACCC Response: Comments have been taken into account in redrafting the proposed product safety requirements.

Consultation Comment: A major national supplier commented that some of the existing State/Territory regulations included an exemption from the requirement to supply written information for professional installations. The supplier felt that there was scope for a similar exemption in this regulation.

ACCC Response: Given that the risks associated with the product may still exist even if the product is professionally installed, the ACCC considers it is appropriate to require that the product has a warning label attached.

Consultation Comment: A range of respondents noted the importance of consumer education in addressing the safety of blind and curtain cords. A major supplier of furnishings recommended the government response to the issue should focus on consumer education rather than regulation, but a child safety organisation put the view that consumer education alone would not satisfactorily address the need to supply safe products.

ACCC Response: Agreement with the importance of the consumer education aspect of the proposal is noted. However, the case for education as an alternate to regulation has not been established.