



25 September 2019

Director, Button Battery Taskforce
Consumer Product Safety Branch
Australian Competition & Consumer Commission
via email: nationalprojects@acc.gov.au

Dear ACCC,

RE: Button Battery Safety Issues Paper

Button batteries present a high safety risk to children. The ACCC and the Federal Minister must act quickly to introduce effective mandatory standards.

CHOICE strongly supports regulatory measures that aim to reduce the risks associated with button batteries in Australia. Each week, an estimated 20 children present to emergency departments across the country after ingesting button batteries.¹ Button batteries can cause serious harm to young children and we know through the premature death of Summer Steer (aged 4) and Isabella Rees (aged 14 months) that ingestion can lead to tragic consequences.

The harm caused by button batteries has been clearly established.² It is now up to the Federal Government to ensure that button batteries and products containing them are effectively regulated to eliminate this market failure and significantly reduce community harm.

Key recommendations:

- 1. That the Federal Minister responsible for consumer affairs makes the voluntary industry code for consumer goods that contain button batteries into mandatory safety standards.**
- 2. That the mandatory safety standards are not subject to the full Regulatory Impact Statement process due to the urgency and severity of the issues.**
- 3. That the new mandatory safety standards require that child-resistant packaging, secure battery compartments, clear warning labels and poisons information are available on all products containing button batteries sold in Australia.**

¹ ACCC (2016), [National Strategy for improving the safety of button battery consumer goods](#) (2016-18), p. 5

² ACCC (2019), [Button Battery Safety Issues Paper](#), pp. 15-26

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4. **That product bans are introduced for novelty items containing button batteries aimed at children.**
5. **That the Federal Government releases a draft proposed General Safety Provision for consultation as soon as possible.**

CHOICE recommends the voluntary *Industry Code for Consumer Goods that Contain Button Batteries* (voluntary code) be made mandatory, with fines for businesses that don't comply.

As noted in the Issues Paper, actions implemented in the *National Strategy for improving the safety of button battery consumer goods 2016-18* (National Strategy) have had little impact in improving button battery safety in Australia.³ The voluntary code has had minimal uptake, with suppliers either being resistant to adopting the voluntary code's prescribed measures or adopting a piecemeal approach. Equally, awareness raising activities on the dangers of button batteries have not sufficiently reduced the risk of injury or death related to exposure to button batteries.

It is impossible for the National Strategy's objectives to be achieved while the voluntary code remains an opt-in solution to the problem of button batteries. Regulatory intervention in the form of mandatory safety standards is necessary to prevent further deaths and injuries of young children caused by button batteries. These mandatory standards can only achieve their intended outcome if rigorous enforcement underpins them. We encourage the ACCC to allocate appropriate resources to achieve this purpose. In addition, penalties for non-compliance should be severe to reflect the nature of harm that is posed to the community when dangerous products are available in the market.

Features of the mandatory standards

The mandatory safety standards should be horizontal, covering all items containing button batteries, and include that:

- all button battery-powered products must have a secure battery compartment,
- button batteries of up to 32mm diameter must be sold in child-resistant packaging,
- for products supplied with a button battery, batteries must be secured within the battery compartment and not loose in the product packaging,
- products that use or contain button batteries have clear and concise warnings, making the risk clear to consumers at point of purchase, and
- products that use or contain button batteries clearly display contact details of the Australian Poisons Information Centre, to assist in cases of battery ingestion.

It is important that the mandatory standards adopt a multi-pronged approach to reduce the risk of harm associated with button batteries at each point of exposure. Specifically, child-resistant packaging, compliant product design and clear warning labels will work together to produce physical

³ ACCC, *Button Battery Safety Issues Paper*, pp. 35-36

barriers to children and alert adults to associated risks of button batteries at point of purchase and at first use of the product.

Child-resistant packaging and labelling should apply to all button batteries regardless of size or chemistry to remove barriers to seeking medical attention in the case of ingestion. Additionally, provision of the Australian Poisons Information Centre contact details on packaging would signal to parents the inherent danger of button batteries and encourage them to seek appropriate help in the case of ingestion.

General Safety Provision

Strongly enforced mandatory standards will provide an effective control in preventing unsafe button battery products from entering the Australian market. However, they are a one-off solution to a wider problem. Australia lacks a General Safety Provision that would require companies to ensure the products they sell are safe before bringing them to market. Since companies are not legally required to assess whether products are safe, many simply don't take proactive steps to ensure the safety of their products. The absence of this requirement represents a large gap in the protections offered under the consumer law and leaves consumers vulnerable to harm from unsafe products.

Post-market controls such as bans and recalls are reactionary and allocate the onus of proving harm to the consumer rather than the trader. This model is outdated in comparison to overseas product safety frameworks. A General Safety Provision provides a coverall pre-market control on unsafe products entering the market, thereby reducing the significant risk of consumer harm that can be caused by unsafe products.

Proposed ban

In the absence of a General Safety Provision, CHOICE encourages the ACCC to ban the supply of certain consumer products containing button batteries including musical greeting cards and novelty items aimed at children that are available at festivals, sporting and other public events and often discarded after one use e.g. flashing LED toys, torches and wristbands.

For further information please contact CHOICE on apereira@choice.com.au

Yours sincerely,



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