

Your Ref:
Our Ref: 858/348

4 May 2020

Mark Rakers
Director
Button Battery Taskforce
Australian Competition and Consumer Commission
GPO Box 3131
CANBERRA ACT 2601

By email: nationalprojects@acc.gov.au

Dear Mr Rakers

Re: Button Battery Safety - Assessment of regulatory options - Consultation paper

Thank you for the opportunity to contribute to the development by the Australian Competition and Consumer Commission (ACCC) of a final recommendation for the Federal Government on proposed regulatory options to reduce the risk of serious harm or death posed by button batteries if ingested by children.

As is discussed in detail in the [Button Battery Safety - Assessment of regulatory options - Consultation paper](#) (the consultation paper), button batteries can cause severe injury and death if swallowed or inserted by children. Young children are at the greatest risk because they tend to place small objects into their mouth, ears and noses. They also have a smaller oesophagus, meaning that batteries can become more easily lodged. If lodged, button batteries can cause a chemical reaction which may lead to extensive tissue damage and catastrophic bleeding. Severe injuries can occur as little as two hours after ingestion. Around Australia, many children have suffered serious injuries associated with ingesting button batteries. Tragically two young children have lost their lives as a result of these injuries.

Role of the Commissioner for Children and Young People

The Commissioner for Children and Young People is an independent statutory office established under Tasmania's *Commissioner for Children and Young People Act 2016* (the CCYP Act). The Commissioner's functions include providing systemic advocacy for all children and young people in Tasmania and promoting the wellbeing of children and young people in Tasmania.

In performing these and other functions under the CCYP Act, the Commissioner is required to do so according to the principle that the wellbeing and best interests of children and young people are paramount and must observe any relevant provisions of the UN *Convention on the Rights of the Child*.



Comment

In my opinion, mandatory regulation is necessary to ameliorate the risk of severe injury or death for children who ingest button batteries. In arriving at this position, I note that despite significant efforts, voluntary supplier self-regulation has not sufficiently reduced the risk of injury or death to children from exposure to button batteries (see page 31 of the consultation paper).

The consultation paper proposes three regulatory options to address the risks associated with button batteries. These options are set out below for convenience:

- Option 1: Make a mandatory safety standard that includes requirements for secure battery compartments in consumer goods that use button batteries. Consumer goods that use button batteries that are intended to be replaced would be required to have a secure battery compartment such that batteries are only accessible with the use of a tool. Consumer goods that use button batteries that are not intended for user removal or replacement would require batteries to be fully secured inside the product. All consumer goods that use button batteries would be required to incorporate mechanisms to prevent removal of the battery by children under normal use or foreseeable misuse.
- Option 2: Make a mandatory safety standard that adopts all requirements in Option 1, and includes a requirement for all button batteries available for sale or supplied with consumer goods (where the battery is not pre-installed in a secure battery compartment) to be supplied in child-resistant packaging.
- Option 3: Make a mandatory safety standard that includes all requirements in Options 1 and 2 and includes a requirement for warnings and information to be provided:
 - on the packaging and instructions for all button batteries available for sale
 - on the product (where practicable), packaging and instructions of consumer goods that use button batteries
 - at point of sale (and prior to purchase) for all button batteries and consumer goods that use button batteries that are sold online
 - at point of sale (and prior to purchase) for unpackaged consumer goods that use button batteries that are supplied to consumers.

I understand that Option 3 above is the ACCC's preferred option and I agree with the rationale provided in the consultation paper for arriving at this position. By adopting a mixture of complementary mandatory safety requirements (ie secure battery compartments, child-resistant packaging and the provision of warnings and information in multiple places/settings), it is more likely that serious injuries and deaths among children will be prevented. This three-pronged approach to child safety would also best address the 'information asymmetry issues' discussed in the consultation paper by requiring warnings and information to be communicated through a variety of methods. This approach is more likely to improve awareness among carers, parents and others of the dangers associated with button batteries for children.

I acknowledge the difficulties associated with mandating Options 1 and 2 for button batteries in hearing devices and note the position proposed by the ACCC in the consultation paper is as follows:

The ACCC considers an exemption for hearing aid devices and associated zinc air batteries is appropriate. Hearing aids do not pose the same risk as other products because of their exclusive use of zinc air batteries which pose lower risks than other button battery types. A mandatory requirement for secure battery compartments and child-resistant packaging for hearing aid devices and batteries would significantly reduce the usability and accessibility of the devices for these consumers, especially those with poor dexterity or vision impairment. The ACCC considers this exemption should be limited to the secure battery compartment requirements and child-



resistant battery packaging, while warnings and information requirements should continue to apply. Inclusion of warnings on packaging and information provided with hearing aids and zinc air batteries should make these products safer by raising awareness of the possible risks associated with the batteries.

Notwithstanding the above, button batteries in hearing aid devices do pose a risk to children including as a choking hazard. Consequently, I would strongly support moves to address risks to child safety arising from button batteries in hearing aid devices including through the increased adoption of hearing aids with fully enclosed rechargeable batteries.

Other matters

I note that Australia does not currently have a national database for consumer product-related injuries or attendances at emergency departments in Australia. Consequently, the ACCC has found that there is no single point of reference for nationwide data on button battery exposures (ingestions or insertions) in Australia. Without a comprehensive data set there may be ongoing challenges to determining whether efforts to address the risks associated with button batteries for children make a difference. I would therefore support the development of a nationally consistent approach to collection of data on accidental childhood injuries including consumer product-related injuries. Monitoring of accidental injuries is an important contributor in our efforts to promote and protect the wellbeing of children.

Conclusion

I wish to congratulate the ACCC for providing such a comprehensive consultation paper. If you or members of your team have any questions about my submission, please do not hesitate to contact me on (03) 61661366 or via email to childcomm@childcomm.tas.gov.au.

Thank you again for the opportunity to contribute to this important regulatory reform process.

Yours sincerely

Leanne McLean

Commissioner for Children and Young People

cc *The Hon Roger Jaensch, Minister for Human Services (Tasmania)*
The Hon Sarah Courtney, Minister for Health (Tasmania)