

Australian Toy Association

Submission to: Director,
Button Battery Taskforce
Consumer Product Safety Branch
Australian Competition & Consumer Commission
GPO Box 3131
CANBERRA ACT 2601
nationalprojects@accc.gov.au

Re: ACCC Button Battery Safety Issues Paper

Australian Toy Association (ATA) Position

1. The ATA is an industry association representing and servicing suppliers of products for children and family leisure, learning and entertainment. We have approximately 300 members that together represent 90% of the industry and \$2.4b in annual retail sales.
2. The ATA supports Australia's practise of providing consumer guarantees for the general safety and quality of consumer products and making specific mandatory requirements under the Australian Consumer Law (ACL) or other relevant specialist legislation to manage specific high risks.

The ATA would support the implementation of mandatory requirements for button batteries because:

- The injury is severe
 - The nature of the hazard is not obvious or easily discerned
3. The ATA strongly supports the alignment of Australian mandatory requirements with those in other markets and those in relevant Australian and International Standards.

The ATA believes that the requirements for button batteries in AS/NZS 62115:2018 are suitable to use for toys because:

- They provide suitable containment requirements for all button batteries including both the use of a tool to access the battery and suitable foreseeable use and abuse testing.
- They provide suitable requirements for instructions and packaging differentiated by style of battery
- They are derived from an IEC standard that Australia actively contributes to so have been agreed by both local and international experts and will be implemented in other markets that use IEC standards

Questions for Response

1. ***What data or information can you provide on the size and value of the Australian market, or for a segment of the market, for button batteries or for products that contain button batteries?***

The ATA doesn't have market data that would identify the proportion of toys that would have a function powered by button batteries.

It should be noted that the smaller diameter 1.5 V cells (traditionally termed button batteries) have been used for many years without a significant incidence of injury. The current issues have arisen since the development and widespread use of larger diameter 3.2 V lithium cells (commonly termed as coin batteries). As mentioned in the ACCC Issues Paper, these cells have an unfortunate combination of characteristics where

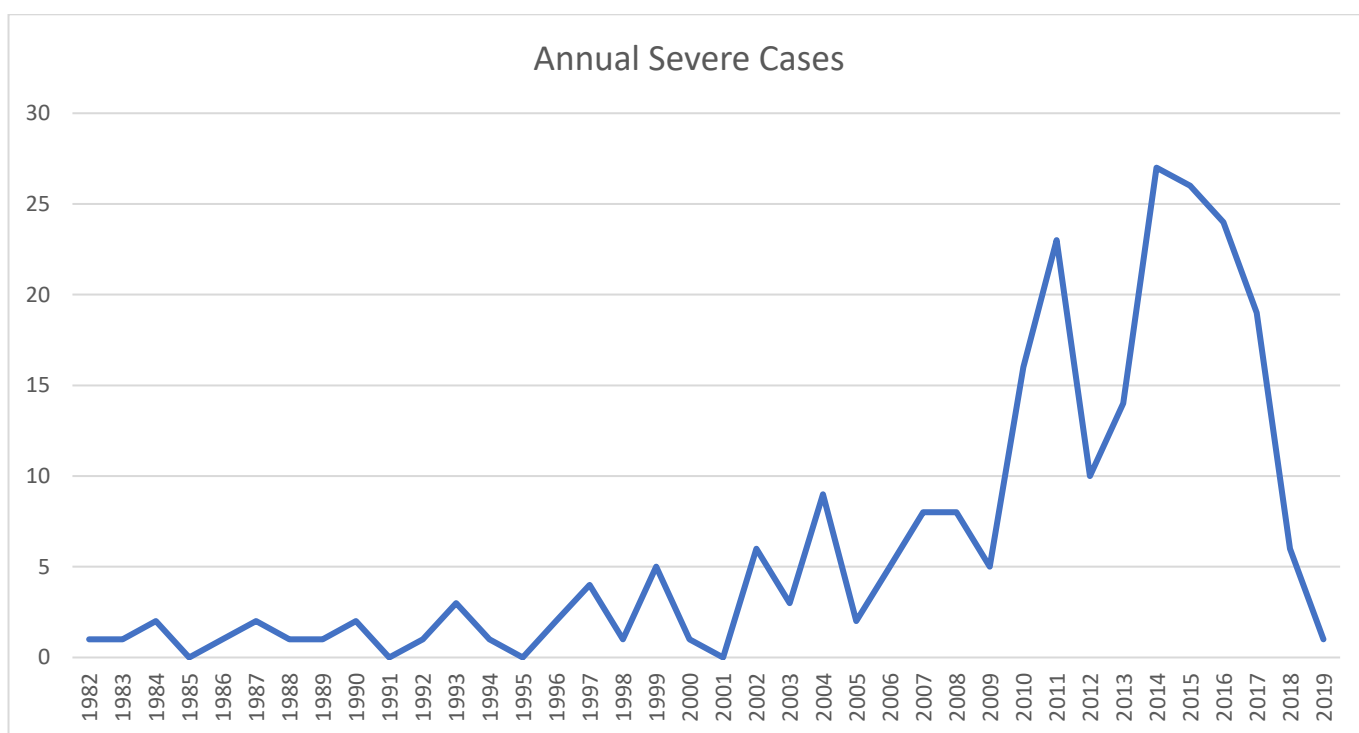
the larger diameter causes them to become stuck in the oesophagus and the voltage (even when depleted) is sufficient to cause current to flow and generate the hydroxides that dissolve human tissue.

There are technical benefits in the use of these lithium coin cells including an improved energy density and much better retention of charge. These benefits seem likely to drive an increasing level of usage.

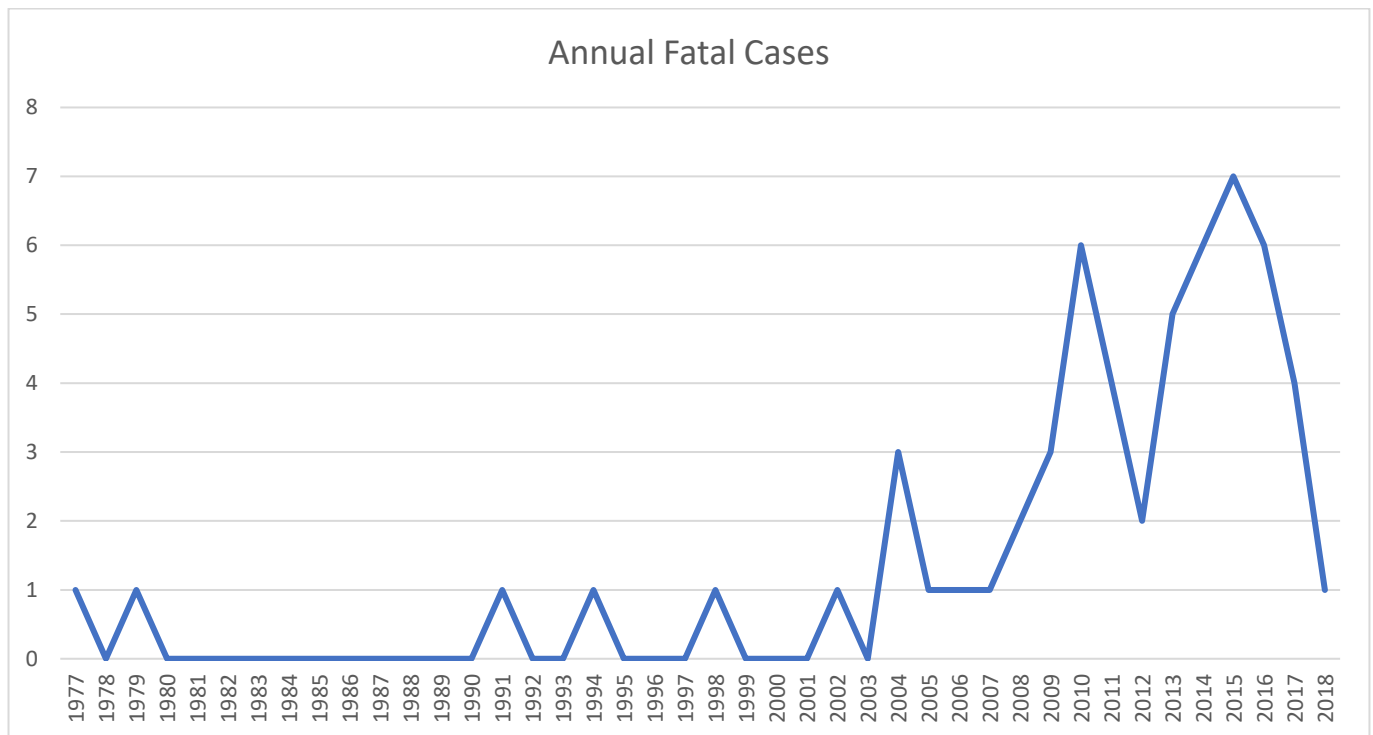
2. What data or information can you provide on the prevalence of and costings of injuries and fatalities caused by button batteries?

We understand that the US Poisons Centre data is the most comprehensive database of button battery incidents. The database seems to include any incident from around the world that they become aware of.

A recent review of the database shows that actions taken to date have had a significant effect with severe injuries reducing from a high in 2014 of 27 to just 6 in 2018



Fatal cases have had a similar decline from a peak of 7 in 2015 to 1 in 2018



Data accessed on August 19, 2019

3. What information can you provide on the range of products that you supply that contain button batteries?

The ATA does not supply product but represents suppliers of toys and other products for children's entertainment and leisure. Button batteries are used in a wide variety of products where small size is an important characteristic.

As mentioned above, lithium coin batteries provide the additional utility of a high energy density and better charge retention than traditional button batteries. These characteristics have driven the large uptake in their use.

4. Do you think the recommended safety actions in the Industry Code for Consumer Goods that Contain Button Batteries (Code) for products that contain button batteries are adequate to reduce the risk of children accessing button batteries? Please provide the reasons for your response.

The ATA is generally supportive of the essential requirements in the current version of the Industry Code (published July 2016), but for toys would prioritise conformity with the more robust requirements in AS/NZS 62115.

Important requirements are:

- a) Restricting access to the battery
AS/NZS 62115 requires that the battery not be accessible without the use of a tool
It also includes use and abuse testing.
- b) Information on the packaging that the product is powered by a button battery so that consumers can avoid the risk if they choose to.
- c) Instructional information on the safe use of the product.

- d) Differentiating requirements for lithium coin and other button batteries to reflect the different risk
The unintended consequence of grouping the different battery types together is that incidents may be treated the same when they shouldn't be. For example:
- The larger lithium coin cells get stuck in the oesophagus while smaller button cells pass through. Note that all injuries from ingestion are related to the battery becoming stuck in the oesophagus. There is no risk if the battery is moving and there is no risk once the battery reaches the acidic fluids in the stomach.
 - Lithium coin batteries have sufficient charge to cause injury quickly and still have a dangerous level of charge when depleted such that they no longer operate the product. Other button batteries have sufficient charge to cause injury only when new and are not hazardous in this way when depleted.
 - The treatment for button battery ingestions is therefore to monitor to ensure that the battery does pass through while the treatment for lithium coin battery ingestions is to remove them.

5. *Do you think the recommended safety actions in the Code should be made mandatory? What impact would mandating these requirements have on Australian suppliers?*

We would support the implementation of mandatory requirements but would recommend that they be based on the requirements in suitable standards rather than the Code. For toys, the suitable standard is AS/NZS 62115.

As mentioned, the standards are developed by global experts (including from Australia) and are aligned with requirements in other jurisdictions.

Responsible suppliers are already ensuring conformance with AS/NZS 62115 so will not be affected by a mandatory requirement to comply with it.

It will be important that the mandatory requirement be widely publicised and enforced so that less responsible suppliers are also encouraged to make the effort to comply.

6. *If you are a supplier, do you supply products that comply with the Code? If no, please explain why. If yes, what actions do you have in place to reflect the Code?*

The ATA recommends to its members that they comply with both the applicable standard (AS/NZS 62115) and the Code and provides guidance on how to do that. We receive sufficient enquiries on it to believe that our advice is being followed.

7. *What other research and development activities are you aware of that are directed toward:*
(a) improving button battery safety
(b) improving the safety of consumer goods containing button batteries
(c) improving the medical approach to button battery ingestion or injury?

The ATA is not aware of any research and development activities other than through media reports.

8. Would a mandated safety standard for the security of battery compartments of products containing button batteries be likely to reduce the number of injuries and fatalities caused by button batteries in Australia? Please provide the reasons for your response.

A mandatory standard provides an easily identifiable set of performance requirements and so removes any confusion about what could and should be done. Our experience suggests that only requirements that are specifically identified as mandatory will be included in recommendations to suppliers by both local and international advisors. Note that this includes advice from Australian Regulators and consumer product testing laboratories.

It is therefore felt that a mandatory standard for the security of battery compartments would reduce the number of products with easily accessible button batteries and so reduce the number of injuries and fatalities caused by button batteries that are accessed from the product by children.

However, batteries can be accessed from other sources such as:

- Expired batteries that have been removed but not disposed of securely.
- New replacement batteries that are not securely packaged.
- Expired and new batteries during replacement operation.

Injuries from batteries accessed from these sources would not be reduced.

9. Would a mandated safety standard and/or an information standard for child resistant packaging and labelling be likely to reduce the number of injuries and fatalities caused by button batteries in Australia? Should any such standard require provision of Australian Poisons Information Centre details? Please provide the reasons for your response.

- a) A mandatory safety standard for child resistant packaging of batteries should reduce the number of injuries and fatalities caused by button batteries that are accessed from battery packaging for the same reason that the one for security of battery compartments would reduce injuries caused by batteries accessed from products, i.e. because it would provide clarity that the requirements are mandatory and so reduce the number of batteries supplied in packaging that is not child resistant.

These new, replacement batteries are the most hazardous as they have the highest charge and so cause greater damage quicker than those that are totally or partially depleted.

- b) An information standard requiring the provision of certain information with replacement button batteries would also help to reduce the incidence of injuries from batteries accessed as a result of changing the batteries. The information should inform consumers on the nature of the hazard from button batteries, that batteries should be accessed only by responsible adults, that batteries removed from products should be disposed of safely and how to do that and that spare batteries should not be accessible by children.
- c) The provision of the Poisons Information Centre detail should not be a part of a mandatory information standard.

The information would have limited use as it seems unlikely that consumers would spend time looking for battery packaging or product instructions for the detail on what to do in an emergency situation. If this information is a high priority, it should be provided in another way.

The ATA is also unsure if the Poisons Information Centre is the best first contact point for consumers. It does not seem ideal that they should need to remember a different emergency number for this situation, and we expect that the 000 operators could be trained to pass such calls on to the centre if needed.

10. *If it is your view that child resistant packaging and labelling requirements should be mandated, do you think this should apply to all button batteries regardless of size or chemistry? Please provide the reasons for your response.*

As mentioned above, the ATA supports the differentiation of requirements for coin sized lithium batteries and is concerned about potential unintended negative consequences of treating all button batteries the same, e.g. unnecessary extraction of smaller non lithium batteries from the stomachs of children. The differentiation is supported by both the mechanism for injury and the injury data.

It would support this differentiation and be consistent with our practise of mandating requirements for only the more serious hazards if the mandatory requirements applied only to lithium coin batteries.

11. *In your view, should any consumer products containing button batteries be banned from supply in Australia? If yes, please provide details and reasons.*

There are significant advantages in lithium chemistry batteries, and they are used globally in a great number of products. The impact of a clearly stated mandatory standard in Australia should be assessed before any contemplation of a ban.

12. *If any of these requirements were mandated in Australia, what additional cost would be imposed on Australian suppliers or a relevant supplier segment?*

Responsible suppliers are already complying with accessibility and labelling requirements in accordance with relevant standards and the industry code. Only suppliers that currently chose to ignore these requirements would incur costs to comply with new mandatory requirements.

The ATA has made enquiries and understands that product complying with the suggested requirements is no more expensive than product that does not. The only cost incurred is that of converting non-compliant product to be compliant. The conversion cost has been estimated to be in the order of \$3,250 for both tooling and artwork changes.

13. *If you are a supplier, what information can you provide on the actual or likely cost of implementing the safety standard and information standard outlined in section 19.2 for button batteries and for products that you sell?*

The cost of implementing a safety or information standard will depend on the detailed requirements included and these are not stated in the section.

If the requirements reference or are aligned to current versions of Australian and international standards, then there would be no cost to implement for the responsible suppliers that are already conforming to these.

If the requirements deviate from current versions of Australian and international standards, then there would be significant additional costs. These would include direct costs of manufacture to produce special Australian variations and indirect costs of testing and management of the process

14. *Are there any button battery products that you think should be exempted from any mandatory safety or information standards? Please provide reasons why.*

As stated above, the ATA believes that it is important to distinguish the different risks from lithium coin batteries vs button batteries. Having the mandatory standard apply only to products using coin batteries would be one way to clarify that.

15. *Please provide any other information you consider may be relevant to the ACCC's consideration of these issues.*

The reductions in severe injury and fatal cases identified in the US Poisons Centre data seem to support the case that the requirements introduced in international standards have been successful in managing the risk and are suitable for implementation by the ACCC.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'R. Hayman', with a long horizontal flourish extending to the right.

Richard Hayman
ATA Compliance