



Lighting Council Australia submission

in response to the

ACCC Button Battery Safety Issues Paper

September 2019

About Lighting Council Australia

Lighting Council Australia (LCA) is the peak body for the lighting industry in Australia, representing 100 of Australia's leading manufacturers and suppliers. The lighting industry represents approximately 5,000 manufacturing jobs across Australia, and many thousands more in related product development and research, engineering, distribution, sales and installation.

Lighting Council Australia members supply lighting products used for professional and general residential, commercial, industrial and street lighting applications.

Importantly, Lighting Council Australia members do not supply toys, novelties or cycling related LED products that have been implicated in button battery injuries.

Background

'Button batteries' are flat and round single cell batteries that are used in a large range of consumer and household products including watches, remote controls, toys, calculators, LED torches, etc. Over 58 million button batteries are sold in the Australian market every year. Button batteries can cause serious harm when ingested and have resulted in two deaths in Australia and hundreds of hospital presentations.

In October 2015 the ACCC requested industry groups form a small Industry Button Battery Working Group to develop a voluntary code for products containing button cell batteries. The *Button Battery Code* was published in 2016, asks product suppliers to ensure battery compartment security, recommends warnings in user instructions and notification at retail point of sale.

In 2017, the Australian standards committee for lighting product safety added requirements for lighting product battery compartment security and user instruction warnings. Australian only packaging requirements for internationally marketed products would be high cost and were not mandated in the Australian lighting standard.

Between 2016 and 2019 the ACCC launched the 'National strategy for improving the safety of button battery consumer products' aiming to gather evidence to inform regulatory and other approaches to battery safety. This project found high rates of unsafe products (mainly toys and other novelty products) that did not comply with the *Button Battery Code* battery compartment security requirements.

The continuing rates of hospital presentations involving the ingestion of button batteries continues to be of great concern to Lighting Council Australia. We also highlight that the recall data in Appendix D of the Issues Paper does not identify any general lighting products and instead identifies novelty and toy LED products as well as other market segment products.

Existing regulatory and standards coverage in Australia

Lighting product safety currently falls under the jurisdiction of the State Government electrical safety regulators. Regulations vary slightly by state. However, all regulations require electrical

lighting products to be safe including from electrical and other hazards. Product must comply with AS/NZS 3820 or the relevant product standard.

Compliance with AS/NZS 3820 can be demonstrated through compliance to a specific product standard. In 2017, the Australian standards committee for lighting product safety added requirements for lighting product button battery compartment security and user instruction warnings to the AS/NZS 60598.1 *Luminaires, Part 1: General requirements and tests* standard.

Lighting Council Australia highlights that general lighting products and their accessories containing button batteries are already regulated under State Government electrical safety regulations and an electrical safety standard.

We also note that the Victorian electrical safety regulations extend to zero volts and cover all products or accessories that are exclusively battery powered (i.e. do not include any mains powered component). So button battery powered novelties, toys, cycling lights, torches, kitchen scales, thermometers and other products are within scope of the Victorian electrical safety regulations.

Product supply generally occurs on a national basis so the Victorian electrical safety regulations (if enforced) would affect the majority of the market.

Lighting Council Australia Members agree to abide by our Code of Conduct requiring compliance with Australian Regulations and standards. Lighting Council Australia has sanctions available under our Code. We have received no complaints regarding non-compliant lighting accessories containing unsecured button batteries.

The lighting industry has already undertaken substantial effort to amend the Australian standard and modify the products it supplies. The lighting industry not been identified through recall statistics as being a cause of problem products.

Lighting Council Australia notes that Australian only packaging requirements for internationally marketed products would be high cost and have not been mandated in the Australian lighting standard. EU general safety regulations capture battery compartment security. However, packaging marking is more difficult due to this not being required in EU regulations or the international market for lighting products.

The product and packaging marking proposal now promoted by some stakeholders in 2019 differs to the proposal recommended in 2016 and includes phone numbers only relevant to Australia (i.e. poisons information number) and prescriptive warning that are not finalised. Such uncertainty as well as unique Australian marking requirements (and the added costs and reduced product availability that would result) make it difficult for Australian lighting product suppliers to commit to packaging marking.

The Australian Consumer Law Consumer Guarantee requires goods to be of acceptable quality, safe, fit for purpose and free from defects. The Minister can issue a compulsory recall notice or regulators can threaten this action unless a voluntary recall is undertaken.

Toys with small parts are already regulated in Australia yet these products dominate reports of non-compliance and recalls. Novelty items, discount stores and a lack of battery compartment security feature heavily in reports of problems in the market. Given the existing non-compliance in the market (i.e. toys), we suggest increased enforcement rather than more rules should be the first action taken. This could occur now.

Issues likely to be causing continuing medical presentations

Lighting Council Australia is concerned regarding the continuing hospital presentations involving button cell batteries and contends that such incidents are due to the following market and regulatory conditions:

- The scope of products containing button cell batteries is vast and increasing with continuing miniaturisation of electrical and electronic consumer products.
- There is no international horizontal button battery standard applying to all products containing button batteries. As long as there is no international standard for button battery security (within products), then Australia is likely to continue to experience significant rates of products containing unsecured button batteries – particularly toys and novelty items – regardless of any regulatory controls in place in Australia.
- Unsecured button batteries become accessible to young children via some poorly designed products (within a limited market segment and not across the board) or due to batteries being left lying around households.
- The awareness raising campaign conducted by the ACCC found high rates of non-conformance (i.e. lack of button battery security) amongst digital scales, digital thermometers, LED candles and torches and toys. Also, discount variety stores and tobacconists were identified as the retail segment commonly supplying products that did not comply with the 2016 Industry Button Battery Code.

The awareness raising campaign undertaken by the ACCC and safety regulators only resulted in 27,000 Youtube video 'views' and 5,000 Code downloads – This should be seen as a poor result considering the millions of households in Australia and the tens of millions of button batteries sold each year in Australia.

- There is a lack of awareness amongst discount stores, tobacconists, toy, novelty, other suppliers/retailers and consumers of the safety requirements of the Australian Consumer Law Consumer Guarantees requiring all goods to be safe.
- Considering the wide market for button battery containing products, significantly greater resourcing of awareness raising, market surveillance and enforcement should occur before any increase in regulation occurs. This can occur now.

Recommendations to reduce button battery incidents

- Increased awareness raising should occur amongst the retailers and product segments identified as high risk. The Department of Home Affairs Statistical Unit collects information regarding the importers of certain products and may be able to assist identify importers of button batteries and products that contain button batteries. Similarly, State Government Consumer Affairs and business registration Departments may be able to identify high risk businesses.
- Households containing young children can be identified through Commonwealth Government Centrelink data and should be educated regarding the dangers of button batteries.
- Maternity units within hospitals could provide educational material to new parents.
- Greater utilisation of ministerial power to exercise forced recalls when unsafe products are found in the market should occur
- An international horizontal standards project should be undertaken by ISO/IEC to develop a global approach. Standards Australia and the ACCC could lead this work. A similar horizontal Australian Standard should be developed in parallel but not lead the international standard development in case the international standard does not exactly follow any Australian Standard development (i.e. Standards developments in Australia do not always result in optimal outcomes and are often varied slightly or improved when taken to the international level). The Australian lighting industry supports the adoption of international standards for use in Australia.
- The ACCC should work with international regulatory peers, particularly in manufacturing countries, to raise awareness amongst manufacturers regarding the safety issues associated with button batteries and the need for button battery security within products.

Additional regulation will result in regulatory duplication and additional red tape.

As outlined above, electrical products containing button batteries already have standards and regulations requiring battery security and warnings on user instructions. Also, the Australian Consumer Law Consumer Guarantee includes safety requirements that already allows regulators to ask suppliers and retailers to conduct voluntary recalls when unsafe products are found in the market. Ministerial powers already exist to force mandatory recalls if recalcitrant suppliers and retailers do not undertake voluntary recalls.

Additional regulations would duplicate existing regulations, add cost to already compliant consumer products and would not likely result in any decrease in hospital presentations. The segment of the market that is already supplying safe products with secure battery compartments should not be sluggish with additional regulatory duplication and costs.

Depending on the proposed regulation and any additional product requirements (i.e. unique Australian warnings and phone number requirements) additional regulations would likely exacerbate the problems in the market due to:

- An increase in consumer prices (up to a doubling of retail prices) that would cause Australian consumers to turn to direct supply from online retailers overseas. Such products are more likely to be unsafe.

- Reduction in consumer choice – i.e. some manufacturers will not make specific products including specific marking requirements for Australia so consumer choice will decrease. This would cause more Australian consumers to turn to direct supply from online retailers overseas. Such products are more likely to be unsafe.

A continued lack of awareness amongst product importers will continue to result in unsafe products being supplied to the market. This issue can only be fixed with increased awareness raising and increased surveillance and enforcement efforts.

In our experience the market segments that are currently supplying unsafe products will continue to supply unsafe products until they are unable to source those products or they are forced to recall those products.

The market segments supplying unsafe products should be targeted for surveillance and enforcement. Parents and carers should be targeted for awareness raising regarding the dangers.

No data has been provided in the *Issues Paper* that would lead us to conclude that products in the professional and general lighting market are the cause of any hospital admissions. Further, no evidence has been provided in the *Issues Paper* that justify an increase in regulation (and costs) on general lighting products.

Industry button battery working group

In October 2015 the ACCC requested industry groups form a small Industry Button Battery Working Group to develop a voluntary code for products containing button cell batteries. The *Button Battery Code* was published in 2016, asks product suppliers to ensure battery compartment security, recommends warnings in user instructions and notification at retail point of sale. Lighting Council Australia agrees with the 2016 edition of the Button Battery Code.

The ACCC recently asked the expanded Industry Button Battery Working Group to conduct a minor review of the Code to correct previous errors. Unfortunately, this Group does not operate under any governance arrangements and has recently expanded to include non-industry participants, consultants and private citizens.

The ACCC should ask the Working Group to halt its current minor revision of the *Industry Code* until more is known regarding the regulatory direction the Australian Government will propose and until Working Group governance arrangements are put in place including: Constitutional stability; Balance; Consensus; Transparency; Declarations of interest register; Privacy arrangements. We suggest that it may be difficult for the Industry Working Group to agree a conclusion unless these fundamental governance issues are resolved.

Industry supports the current requirements in the existing *Industry Code* (i.e. 2016 version) and believes that more should be done in terms of enforcement (i.e. Toy regulation, Australian Consumer Law safety requirements) and market/consumer education.

Detailed responses to specific questions contained in the Issues Paper

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?

Lighting Council Australia members have indicated these products may account for between 3-10% of their annual revenue. In Australia lighting is a two-billion-dollar industry. Lighting Council Australia members supply (on average) ten models containing button cell batteries. With around 200 lighting equipment importers/suppliers in the Australian market, we estimate there are around 2000 lighting models on the Australian market contain button batteries.

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

Lighting Council Australia is not aware of any injuries or fatalities as a result of lighting products that contain button cell batteries.

We also note the existing mandatory reporting statutory requirements contained in section 131 of the Australian Consumer Law. If reportable incidents involving lighting products have occurred then the ACCC should have the data and information relating to those incidents.

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

Button cell batteries are found in a broad range of products including consumer products. Lighting Council Australia members indicated that common lighting products containing button cell batteries include: Remote controls for lighting products; and Lighting control receivers (time clock backup).

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 2016 *Code* requires security of button battery compartments and recommends warnings on products, user instructions, packaging or retail shelving. Lighting Council Australia contends that the primary means of restricting access to button batteries is battery compartment security (i.e. use of a tool or two simultaneous and different actions to remove the battery) and the immediate disposal of button batteries after spent batteries are removed from products.

Lighting Council Australia notes there are regulations in place (e.g. electrical safety, Australian Consumer Law Consumer Guarantees, toy safety standard) that currently allow regulators to ask

suppliers of unsafe products to recall those products voluntarily or be forced to recall products under mandatory recall notifications.

Despite existing regulatory and standards controls (e.g. *Consumer Product Safety Standard: Toys for children up to and including 36 months of age*) in place since 2003, toys are the most common sources of batteries reported to cause injury.

Lighting Council Australia highlights that the 2016 *Code* requirements combined with existing regulatory controls, sufficient surveillance, enforcement and market awareness raising, should be adequate to reduce the risk of children accessing button batteries.

The main issue seems to be a lack of compliance and enforcement amongst a few problematic market segments (e.g. discount shops, toy and novelty suppliers). Lighting Council Australia recommends that increased surveillance, enforcement and awareness raising is undertaken by regulators particularly targeting the problematic market segments.

Simply increasing pre-market regulatory requirements will add costs and increase regulatory duplication on the segments of the market that are supplying safe products and will not likely reign in the problematic market segment that will continue to import and supply unsafe products.

No evidence has been provided by the ACCC to demonstrate that an increase in pre-market regulatory requirements will be effective in reducing the risks associated with button batteries. No information has been provided indicating that products that include battery security measures are the source of any incidents.

The 2019 *Code* is still in draft form so it is not possible to comment on the final version. However, Lighting Council Australia notes that some stakeholders are calling for additional product and packaging marking requirements without providing any evidence that such marking will improve compliance, safety or the rate of hospital admissions.

Lighting Council Australia notes that Australia is a very small part of the global consumer market and mandating Australian specific marking requirement will significantly increase the cost of consumer products (Lighting Council members estimate that costs will increase by 100% for inexpensive remote controls) and reduce consumer choice (i.e. some product suppliers will not be willing to alter their products to suit specific Australian requirements). Both effects will drive more consumers to seek products via overseas based online retailers who are not subject to the existing Australian regulatory and standards controls.

Lighting Council Australia notes there is a lack of information describing the sources of button batteries involved in exposure incidents and we also recommend the development of a template survey for use by medical staff to obtain more information about the specifics of problematic products. For example:

- What type of product was involved in the incident (if known)?
- Does the product involved have battery compartment security?

- If yes, to above, how did the child access the battery (i.e. product broke, parent removed battery, etc.).
- Are other product characteristics known? (i.e. user instruction warnings, packaging warnings, etc).

From the answers to the above questions, a profile can be developed of problematic products and targeted surveillance and enforcement efforts can be undertaken.

Before any increase in regulation, the following questions should be examined:

- Are market segments that have either applied the industry Code or safety standards causing less injuries?
- What reduction in incidents is achieved by increased battery compartment security requirements?
- What reduction in frequency of incident is achieved by increased marking and labelling requirements?
- Is 27,000 safety video 'views' adequate to raise awareness amongst the millions of Australian consumers? Lighting Council Australia suggests this is inadequate and marketing specialists should be contracted to provide advice on how to significantly increase the reach and effectiveness of a campaign.
- Is awareness of the existing regulatory controls (i.e. ACL Consumer Guarantee requiring safe products) adequate amongst all button battery product suppliers? Lighting Council Australia suggests the answer to this question is no.

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?

As indicated in the *Issues Paper*, there are already significant regulatory controls and Industry guidance material available for regulators to educate the market and allow regulators to remove unsafe products.

The *Issues Paper* indicates (page 35) that when regulators find unsafe products, suppliers can be asked to take voluntary recall action or "the ACCC may recommend that the Minister exercises powers under the Australian Consumer Law to effect compulsory recall of the goods."

The *Issues Paper* further contends that "the presence of a voluntary Code did not persuade all suppliers to improve the safety of goods or remove likely unsafe products from users. Some suppliers complained that they were asked to take any action at all in relation to a Code that was voluntary in nature. This indicates that the voluntary guidance has not been effective enough in reducing the hazards associated with button battery products."

Lighting Council Australia highlights that the *Issues Paper* fails to indicate whether suppliers of unsafe products were even aware of the Code or their requirements under the ACL Consumer Guarantee to supply safe products and that button battery products with unsecured battery compartments are inherently unsafe. We expect that many suppliers referred to in the *Issues Paper* were not aware of the Code, regulations and safety issues.

We highlight that the regulator and Minister already have powers to prompt voluntary recall or force compulsory recalls and that market and consumer awareness is likely to be woefully inadequate. Also, the electrical products markets are already regulated under existing electrical safety regulations including mandatory compliance with safety standards that include button battery security and warning requirements. Instead of increasing regulations, regulators should exercise their existing powers.

No information has been provided in the *Issues Paper* that would indicate additional regulatory controls will have any effect on unsafe button battery products currently available on the market.

As a further example Toys with small parts are already regulated in Australia yet these products dominate reports of non-compliance and recalls. Novelty items, discount stores and a lack of battery compartment security feature heavily in reports of problems in the market. Given the existing non-compliance in the market (i.e. toys), we suggest increased awareness raising, surveillance and enforcement would be more effective than subjecting suppliers of safe products to more rules and costs. This could occur now with no legislative amendments.

Mandating *Code* requirements will likely have no impact on the segment of the market supplying unsafe products. That market segment will continue to supply unsafe products due to a continued lack of awareness of the consequences of their actions.

Mandatory *Code* requirements will increase compliance costs for suppliers of safe products due to regulatory duplication and may significantly increase the cost of inexpensive products such as remote controls if the 2019 *Code* contains additional requirements such as product and packaging marking requirements that are specific to Australia. Mandatory packaging and labelling requirements which differ from international requirements would isolate the Australian supplier market and impose prohibitive costs.

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?

Lighting Council Australia members have indicated that they comply with the existing lighting product standard requiring button battery security and user instruction warnings. This is a compliance requirement under existing electrical safety regulations. In turn, the lighting industry complies with the 2016 *Code*.

Lighting Council Australia Members agree to abide by our Code of Conduct requiring appropriate standards of commercial conduct, compliance with all regulatory requirements and social responsibility.

Lighting Council Australia Member products are regulated under State electrical safety regulations that in turn require compliance with relevant product standards. The AS/NZS 60598.1:2017: *Luminaires General requirements and tests* standard is relevant to lighting equipment and accessories such as button battery powered remote controls and other accessories.

AS/NZS 60598.1:2017 was developed as a world leading standard for the safety of button cell battery powered lighting products and their accessories. It requires that the button or coin cell batteries only be accessible with the use of a tool, or that the battery compartment be opened by two independent and simultaneous movements. A further requirement is that safety warnings must be provided in user instructions accompanying the equipment.

Lighting Council is opposed to additional mandatory Australian only packaging marking requirements. Instead, any additional product, packaging or other requirements should be first developed at an international level by international standards development agencies such as the ISO and IEC.

We note that the current lighting standard containing button battery requirements was agreed by consensus amongst industry, safety test laboratory, Government regulators and consumer representatives.

We also note that a principle of the *Code* was not to override or conflict with existing product standard requirements.

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?

(b) AS/NZS 60598.1:2017 is an applicable Australian Standard that has not been mentioned in this issue paper. At the time of publication, the standard implemented world leading safety requirements of button cell batteries. It requires that the button or coin cell batteries only be accessible with the use of a tool, or that the battery compartment be opened by two independent and simultaneous movements. There is also an additional requirement that safety warnings are provided in the instructions accompanying the equipment (NOT additional marking / packaging requirements).

International standards committee SC34D Working Group 1 is currently developing requirements for battery powered luminaires. It is expected that these requirements would include requirements covering button battery powered products and accessories. This committee will likely complete this project in 2022 or 2023 as this amendment is part of an entire and substantial revision of the fundamental international lighting standard.

Standards Australia will convene a Button Batteries forum on the 30 October, 2019. This forum will allow all interested stakeholders to discuss various aspects of button batteries and associated products. Lighting Council Australia highlights that parallel projects should be developed at both the international level and Australian level for a horizontal button battery safety standard.

If an Australian standard is developed in advance of an international standard there is a danger of misalignment and a technical trade barrier in Australia. Many Australian proposals are altered

significantly before being published in international standards and this development may be no different.

The ACCC set-up the Industry Button Battery Working Group which developed the industry guidelines in 2015. This Group was arranged without any governance arrangements which may prove to be problematic regarding the finalisation of an agreed revised *Code*.

The ACCC should ask the Working Group to halt its current minor revision of the *Industry Code* until more is known regarding the regulatory direction Treasury will propose and until Working Group governance arrangements are put in place including: Constitutional stability; Balance; Consensus; Transparency; Declarations of interest register; Privacy arrangements.

(c) Button battery medical incident reports, such as those provided by the Queensland Injury Surveillance Unit are not substantially informative apart from identifying that button batteries are reported as the cause of a presentation. As above, a reporting template should be developed and rolled out that helps to determine the root cause of the incident and not simply the result. Such improved incident data would inform the development of appropriate regulatory and market solutions and help to reduce the incidents occurring.

The *Issues Paper* also highlights medical incidents that indicate improved medical training would likely improve patient outcomes.

We further suggest the development of a system that automatically links medical presentations associated with particular products with mandatory reporting requirements.

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.

Toys with small parts are already regulated (including a product standard) in Australia yet these products dominate reports of unsafe (non-compliant) products and recalls. Similarly, novelty items, discount stores and poor battery compartment security feature heavily in reports of unsafe products yet these products are subject to the ACL Consumer Guarantee product safety regulations.

Given the existing regulations and high rates of non-compliance in the market, Lighting Council Australia suggests that increased awareness raising and increased enforcement of existing regulations, rather than more regulation, should be the first course of action. This could occur now.

Professionally fitted hearing aids are excluded from the scope of the existing Industry Code. The most comprehensive data on button battery exposures and deaths provided by the National Capital Poisons Centre, USA (NCPC) identified hearing aids as the most common source of injury. So mandating the existing Code would not include this market segment.

The *Issues Paper* does not provide any evidence that increasing regulation or mandating the existing Code would be effective in reducing the risks associated with button batteries. The *Issues Paper* does indicate that the existing awareness raising and regulatory surveillance and enforcement efforts have failed to sufficiently reduce the incidents occurring. So increased awareness raising and enforcement actions should be undertaken instead of increased regulation.

Also, an international horizontal standards project should be undertaken by ISO/IEC to develop a global standard approach to button battery safety. Standards Australia and the ACCC could lead this work. The Australian lighting industry supports the adoption of international standards in Australia.

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.

Unfortunately, insufficient evidence has been provided by the ACCC to demonstrate that recommended packaging marking, user instruction warnings and product markings would be effective in reducing the risk associated with button batteries and it would be premature to mandate these requirements for Australian suppliers. This is especially true for mandated marking and packaging requirements which vary from international requirements, considering Australia dependency on international consumer goods manufacturing.

Lighting Council Australia highlights that the primary strategy to mitigate against button battery incidents should be battery compartment security. Existing standards and regulations include requirements. Increased surveillance and enforcement efforts are needed.

Also, ACCC consumer and industry awareness raising efforts have only resulted in 27,000 safety videos 'views' and around 5,000 *Code* downloads. More targeted awareness raising should be undertaken.

In terms of any additional product, packaging or user instruction requirements, an international horizontal standards project should be undertaken by ISO/IEC to develop a global approach. Such an approach will reduce the chance of any misalignment (and trade barriers) between Australian and international standards. Standards Australia and the ACCC could lead this work. The Australian lighting industry supports the adoption of international standards in Australia.

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.

Mandated requirements should not preclude future innovations and technological developments such as alternate battery chemistries or pressure sensitive coatings that inherently improve button batteries safety. If a button batterie is inherently safe it should be exempt from additional regulations that may inhibit uptake and application of the alternate technologies.

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

If it is possible for a product to include battery security arrangements then that type of product should not be banned from sale.

If incidents involving particular products continue to occur then the ACCC and other safety regulators should revise their awareness raising approach, their surveillance and enforcement approach and any international standards that exist.

Product suppliers who are marketing safe products should not be penalised due to the actions of suppliers of unsafe products.

Miniaturised products are becoming more popular in Australia due to consumer demand. If consumers are unable to find particular products on the Australian market they will source products directly from overseas based online suppliers. Such products and suppliers are not subject to or within reach of Australian regulations, standards and jurisdictions.

Toys with small parts are already regulated in Australia yet these products dominate reports of non-compliance and recalls. Novelty items, discount stores and a lack of battery compartment security feature heavily in reports of problems in the market. Given the existing non-compliance in the market (i.e. toys), we suggest increased enforcement rather than more rules should be the first action taken. This could occur now.

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

The cost would be dependent on any additional regulatory controls/standards mandated and the regulatory implementation conditions. As advised by a large Lighting Council Australia Member:

- Grandfathering of existing button battery products already in the market would be required otherwise suppliers and retailers would be exposed to high cost to implement requirements.
- A minimum of 12 months lead time would be required to accommodate and implement any packaging changes.
- Depending on regulatory requirements a minimum of 12 months lead time would be required to accommodate and implement mandatory regulations.

Mandatory packaging and labelling requirements which differ from international requirements would isolate the Australian supplier market and impose a significant additional cost due to global manufacturing at scale. Unique Australian product requirements would likely increase consumer prices by 100% and reduce the selection of products available to consumers.

Any additional product requirements specific for the Australian market (i.e. moulded marking requirements) would require product development implementation lead times of two to three years.

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?

As above and informed by our members, the cost of implementing prescriptive requirements that are above the existing lighting product standard requirements would likely be high (i.e. 100% increase in consumer prices). Further outcomes would likely be reduced consumer product availability, increased rates of non-compliant products and reduced consumer choice due to reduced product availability (some products suppliers will not alter their product to comply with unique Australian requirements).

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 originally outlined in the principles of the Industry Code published in 2016, the industry code is not intended to conflict with requirements of applicable product safety standards or override them. It is also intended to be consistent (where possible and relevant) with similar initiatives or action in other leading markets (such as the EU and USA).

In alignment with these principles mandated application of the code should exclude products which fall under the jurisdiction specialist regulators such as electrical safety regulators and/or are compliant to relevant horizontal national/international product safety standard (should one be developed in the future).

Any mandated requirements should be flexible and outcomes-based rather than prescriptive and inflexible. ACCC mandated requirements may act as an industry 'benchmark' for safety purposes that apply minimum safety requirements in the absence of an appropriate national/international product safety standard.

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

Lighting Council Australia recommends that any regulatory policy should be determined before the 2019 *Code/Guidelines* are finalised.

Also, Working Group governance arrangements should be put in place before the Working Group continues its finalisation of the 2019 Code.