



**CONSUMERS'
FEDERATION
OF AUSTRALIA**

Developing and promoting
the consumer interest

PO Box 16193
Collins Street West
VIC 8007

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By email: TopplingFurniture@acc.gov.au

Director
Toppling Furniture Safety Review
Consumer Product Safety Division
Australian Competition & Consumer Commission
GPO Box 3131
Canberra, ACT 2601

Dear Director

Toppling Furniture Consultation Paper – Assessment of Regulatory Options

The Consumers' Federation of Australia (CFA) welcomes the opportunity to provide a submission to the Toppling Furniture Consultation Paper.

CFA is the peak body for consumer organisations in Australia, advocating in the interests of Australian consumers. It promotes and supports its members' campaigns and events, nominates and supports consumer representatives to industry and government processes, develops policy on important consumer issues and facilitates consumer participation in the development of Australian and international standards for goods and services.

CFA also plays an important role in ensuring consumer interests are represented in the development of standards. In recognition of the importance of promoting consumer involvement in standardisation, CFA recruits, facilitates, and supports the participation of expert consumer representatives on technical committees that are responsible for the development of Australian Standards. This work is supported through an annual grant from Standards Australia. This submission has been developed with the support of expert consumer representatives.

In summary, the CFA supports Option 5(b) in the Consultation Paper, being the enactment of a mandatory safety standard and a mandatory information standard under the Australian Consumer Law.

Mandatory standards will help prevent harm

The ACCC should be commended for progressing this important product safety issue. The move towards a more holistic approach to prevent, in the main, childhood injuries associated with unstable furniture is supported by the CFA and should be the model adopted for all further product safety initiatives.

The Consultation Paper correctly identifies those current voluntary actions to deal with the dangers associated with toppling furniture have not had the desired outcome and that government intervention is required.

The CFA supports option 5b as presented in the Consultation Paper as the most appropriate in terms of its ability to reduce consumer injuries over time associated with toppling furniture. As well as the cost benefit analysis demonstrating the net economic and social benefit, option 5b also meets some of the key principles of product related injury prevention. This calls for a broad-based approach to be taken to include commitment to:

- Include the safety of users at all stages of the product supply process from design, manufacture, marketing use and disposal.
- Develop regulation based around recognised safety standards that is comprehensively enforced, not unnecessarily burdensome for industry to comply with, and linked to well-funded and targeted national consumer education programs.

At this point the CFA supports the exclusion of TV sets from the consultation process and notes the current work being undertaken by the Electrical Equipment Safety System under the guidance of the Electrical Regulatory Authorities Council. However, this does need to be monitored closely to ensure it meets the desired outcome over time.

Inadequate worldwide standards

One of the key barriers to industry voluntarily adopting standards may be the perceived inadequacy of current voluntary worldwide standards. The US Consumer Product Safety Commission (the **CPSC**) has identified this as an issue in its current rule making procedures to introduce mandatory safety requirements to reduce the risk of childhood injury with certain types of free-standing furniture.

A very thorough assessment of [current stability requirements of available voluntary standards](#) around the world by the U.S. CPSC in February 2022 indicated that, according to their analysis, none of the worldwide standards examined by the CPSC provided an acceptable level of consumer safety. This analysis was undertaken as part of the regulation making process to consider mandating stability requirements for storage furniture. These standards were:

- *ASTM F2057-19, Standard Consumer Safety Specification for Clothing Storage Units;*
- *AS/NZS 4935:2009, Domestic furniture—Freestanding chests of drawers, wardrobes and bookshelves/bookcases—determination of stability;*
- *ISO 7171:2019, Furniture – Storage Units—Test methods for the determination of stability¹;*
- *EN 14749:2016, Furniture - Domestic and kitchen storage units and worktops—Safety requirements and test methods; and*

¹ It should be noted that this standard was recently incorporated into *ISO 7170:2021 Furniture - Storage units – Test methods for the determination of strength, durability and stability*.

- *ANSI/SOHO S6.5-2008 (R2013), Small Office/Home Office Furniture—Tests. American National Standard for Office Furnishings.*

Given the scope of the CPSC analysis and in recognition that many flat pack furniture products and other free standing furniture items would likely be supplied into the USA as well as Australia it is recommended the ACCC liaise closely with the CPSC during the regulatory development process with a view to working towards a similar approach to the US in terms of harmonising mandatory safety requirements internationally.

Rental properties

The Consultation Paper correctly points out the dilemma of those that rent properties in terms of being able to secure unstable furniture to a suitable surface such as a wall. The obligations of landlords and renters are not clear and are likely to be inconsistent across the country.

Given the good work undertaken by the ACCC on this issue and the high regard in which the ACCC is held it is recommended the Chair of the ACCC write to state government housing ministers with a view encouraging them to adopt a national requirement under tenancy laws that would allow renters to make minor changes to a property to secure unstable furniture. This could be as simple as allowing renters to secure angle brackets to walls to secure free standing furniture. In furnished accommodation the property owner potentially already has a duty of care to secure unstable furniture. It is likely the most vulnerable in terms of injury are those people that rent accommodation and it not acceptable that they have to endure a less safe living environment than those that own their own home or are purchasing a home.

Australian Standards development

The ACCC should note the progress being made by Australian Standards Technical Committee CS-088 in terms of reviewing *AS/NZS 4935:2009, Domestic furniture—Freestanding chests of drawers, wardrobes and bookshelves/bookcases—determination of stability.*

Whilst this review is only at the proposal stage, the review is strongly supported by the CFA. The discussion so far has been around a modified adoption of *ISO 7170:2021 Furniture - Storage units – Test methods for the determination of strength, durability and stability.* It is possible that such a standard would be able to meet the requirements of option 5b in the Consultation Paper.

In the CFA's view the Australian Standard should contain as a minimum:

- A clear scope of which products are covered by the standard e.g., chests of drawers, bookcases wardrobes storage cabinets and entertainment units;
- Requirements for stability as contained in ISO 7170:2021 including testing requirements;
- Requirements for the supply and performance of anchoring devices as contained in ISO 7170:2021 and;
- Clear and concise consumer safety information and warnings on installation and use of the furniture and anchoring devices. This should be both contained in the packaging of the product and made available at point of sale.

Option 5b in the RIS appears broadly consistent with the current thinking of the CFA about what should be included in an Australian Standard.

It may in the interests of the ACCC to work closely with Standards Australia to monitor the progress of the review of AS /NZS 4935. Should the review result in a modified adoption of ISO 7170:2021 there may be an opportunity to mandate compliance with parts of the new Australian Standard that cover the issues contained in option 5b in the RIS rather than mandate compliance with the ISO or EN standards as outlined in the RIS.

The benefits of this would be that stakeholders would only need to draw from one standard rather than an ISO and EN version. Not only would this be less costly for stakeholders it would allow them more scope to influence changes to the standard if required at some time in the future. Although Australia is represented on the respective ISO standards committee amending an ISO standard can be a long drawn process requiring approval from multiple nations and can take several years.

It would also seem logical for the regulatory process and the standards development process to run in parallel with each other with a view to settling on a nationally consistent approach on dealing with the safety issues of toppling furniture.

Information Standard

The description of the proposed information standard in the Consultation Paper is lacking in evidence about actual consumer behaviour when responding to information messages. Research from the Australian Securities & Investments Commission in 2019 focused on the real-world context in which disclosure operates, showing that disclosure and warnings can be less effective than expected, or even ineffective, in influencing consumer behaviour.² The research also showed that in some instances it shows that disclosure and warnings can backfire, contributing to consumer harm. The report also describes the range of reasons why disclosure can be ineffective.

CFA considers designing out safety issues is likely to be much more effective than requiring more information. If we are to use information remedies, then CFA considers that the effectiveness of information remedies should be tested using a random-controlled trial (RTI). The effectiveness of the information should also be monitored when introduced.

Regulatory costs

The Consultation Paper notes that stakeholders indicated that ‘the cost of implementation and compliance [of any regulatory measure] should not be overly burdensome’ and that ‘regulation should not limit consumer choice’.

CFA does not accept these views. In many instances, the community is comfortable with removing choices which are unsafe, especially where consumers might assume their continuing sale means they are safe. The removal of unsafe products is common across many different markets, even though this might reduce choice (or even increase costs), because regulators do not want people to mistakenly believe that unsafe products are safe and effectively endorsed by the regulator.

² ASIC, Disclosure: Why it Shouldn't be the Default, 2019, available at: <https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-632-disclosure-why-it-shouldn-t-be-the-default/>

This is particularly so in markets like that considered in this consultation, where the focus is on products that are unsafe when used in a predictable way by their intended users (family members of all ages in a household).

Regarding regulatory burden, we note that the objective here is child safety. While the intervention should be made in a way that minimises regulatory burdens, the creation of additional regulation in order to achieve the objective is wholly appropriate and in this instance is entirely necessary.

General Safety Provision

CFA considers that any amendments to Australia's Consumer Product Safety Framework should be accompanied by a general safety provision. We note that consumer affairs officials consulted on options to introduce such a provision in 2019, following a recommendation of the 2017 review of the Australian Consumer Law. CFA understands that the ACCC, as well as state and territory product safety regulators, uniformly support the introduction of a general safety provision.

A general safety provision would place a positive onus on all suppliers (and those in the supply chain, such as importers) to ensure the safety of a product before placing it on the market. This provision would support flexibility for suppliers by being principles-based so that compliance would not be prescriptive.

Ultimately, a general safety provision would require suppliers to adopt a culture of safety by taking positive steps to ensure their products are safe prior to sale rather than the consumer protection system relying on recalls and 'after the fact' compliance initiatives. Many suppliers already have good systems in place to ensure products are safe and may welcome the opportunity to work within a flexible framework that a principle-based general safety provision would bring.

We strongly urge that specific mandatory standards for toppling furniture be accompanied by the enactment of a general safety provision.

Should you have any questions about this submission, please contact Gerard Brody, Chair, by emailing chair@consumersfederation.org.au.

Yours sincerely

CONSUMERS' FEDERATION OF AUSTRALIA