



Australian
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14 June 2017

Mr Peter Saunders
First Assistant Secretary
Regulatory Reform Division
Department of Prime Minister and Cabinet
One National Circuit
BARTON ACT 2600

By email: helpdesk-obpr@pmc.gov.au

Dear Mr Saunders

Re: Regulation Impact Statement for final assessment second pass –decorative alcohol fuelled devices

We enclose our Regulation Impact Statement (RIS) for decorative alcohol fuelled devices.

We provided you with a copy of the Decision RIS for first pass assessment on 2 June 2017 and you replied with comments on 8 June 2017. We are satisfied that the RIS addresses those concerns as explained in the Attachment.

Accordingly, we are satisfied that the RIS now meets best practice consistent with the *Australian Government Guide to Regulation*.

We submit the RIS to the Office of Best Practice Regulation for formal final assessment.

Yours sincerely

Rayne de Gruchy
Chief Operating Officer

Attachment: Response to Office of Best Practice Regulation comments

1. One page summary

1.1 OBPR comment: One page executive summary of the RIS is required and needs to be approved by the OBPR along with the RIS itself.

ACCC response: A one page executive summary is now included in the RIS using the required template.

2. Organisation of the RIS

2.1 OBPR comment: Any reader unfamiliar with the issues would benefit from placing the problem and deaths and injuries section upfront in the RIS and the consultation section nearer the end of the RIS, for example, moving the current section 5 (problem and the need for government action) and section 6 (deaths and injuries) after section 2 (recommended option) and moving current section 4 (consultation) after section 10 (comparison of options). This would assist in highlighting how each of the options might address the problem.

ACCC response:

- This comment by the OBPR was of particular assistance in redrafting the Decision RIS. It was apparent from later comments by the OBPR that the options discussed in the RIS could be misinterpreted by a reader who is unfamiliar with the issues. In particular, the ACCC has sought to clarify that:
 - Option 2 would prevent the sale of table top devices and impose safety requirements on fixed and free standing devices. The benefit of Option 2 is based on the 45 injuries and 6 house fires involving table top devices. The benefit of Option 2 is not limited to refuelling. In contrast, Option 3 would require certain fuel containers to include a flame arrestor. The benefit of Option 3 is based on the 28 injuries and 3 house fires involving *refuelling* table top devices. It would not address other hazards such as a device being knocked over while lit.
 - The proposed safety standards in Options 2 and 4 would apply to unsafe devices supplied prior to the commencement of the safety standard due to the voluntary and compulsory recalls discussed in the implementation section.
 - The total value of imports using Tariff Code 7321.82.00 from 2012 to 2016 was \$6.6 million. The total value of decorative alcohol fuelled devices within this category is estimated to be \$5.7 million. The total value of imports that would be impacted by Option 2 is estimated to be \$4.2 million (this figure has been adjusted down from \$4.5 million after further review). However, note that the final wording in the RIS is to be cleared with the Department of Immigration and Border Protection.
- To improve the clarity of the document, the ACCC has:
 - Added a four page executive summary (along with the one page template executive summary).
 - Moved the problem section (injuries and house fires) closer to the front of the document (section 3) and added a separate section on the need for government action (section 8).
 - Revised the comparison of options (now section 9) by moving the detailed discussion on specifications into a new section (section 10). This should assist readers to compare the five policy options.

- Included a new attachment setting out, in table format, a detailed cost-benefit analysis (Attachment A). The RIS places this cost-benefit analysis into the context of the legislative tests that the ACCC is required to apply under the Australian Consumer Law.
- Included a new attachment to meet the requirement: to quantify the regulatory costs imposed on businesses, community organisations and individuals by new regulation or changes to existing regulations; and to fully offset the cost burden of new regulation (Attachment B).
- However, the revised RIS continues to have the consultation section (section 7) before the comparison of options (section 9) as section 9 draws heavily upon the submissions of parties, and this assists the ACCC to demonstrate that it has met procedural fairness requirements.
- Following the Commission decision on 7 June 2017, the RIS has been revised to reflect the following changes to the proposed safety standard:
 - devices are required to satisfy the stability test in the European standard;
 - revised warnings including a reference to deaths in addition to injuries; and
 - three month transition period.

3. Problem and the need for Government action

3.1 OBPR comment: While the RIS provides an explanation and description of the problem, the RIS should also point out why Government action is needed, and why the market cannot be relied upon to correct the problem itself.

ACCC response: The RIS now includes a section on why government action is needed and why the market cannot be relied upon to correct the problem itself (section 8).

3.2 OBPR comment: Is there any evidence of the effect of international voluntary standards in reducing incidents and injuries?

ACCC response: The ACCC has been in contact with the relevant international bodies throughout this process, and is not aware of any such evidence. This is now noted in the RIS (section 6).

4. Problem and the need for Government action

4.1 OBPR comment: A Regulatory Burden Measurement is required.

ACCC comment: See paragraph 2 above and Attachment B of the revised RIS. Note that Attachment B only covers the recommended new regulation (a safety standard applying to decorative alcohol fuelled devices).

4.2 OBPR comment: A more detailed discussion of the costs and benefits associated with each option. In particular, Options 4 and 5 need to demonstrate how or explain why each option would likely be higher or lower in cost than Options 2 or 3.

ACCC comment: See paragraph 2 above and Attachment A of the revised RIS.

4.3 OBPR comment: A consistent use of the number of incidents and/or the number of injuries provided in Section 6 in the analysis of Options 2 and 3.

ACCC comment: See paragraph 2 above. The ACCC has revised the RIS to clarify that Option 2 prevents the supply of table top devices. In contrast, Option 3 addresses only the refuelling risk of table top devices.

4.4 OBPR comment: The analysis of avoided injuries relate to the stock of existing heaters already in people's homes. However, the proposed standards or bans in options 2, 4 and 5 relate only to the flow of new heaters.

ACCC comment: See paragraph 2 above. The ACCC has revised the RIS to clarify the link between the policy options and the discussion of recalls in the implementation section.

4.5 OBPR comment: The standards analysed in Options 2 and 4 relate to reducing risk of incident and injury at the point of refilling, but the quantitative analysis implies that the standards will reduce risk from all causes.

ACCC comment: See paragraph 4.3 above.

4.6 OBPR comment: The analysis of Option 3 should note that it has higher potential (gross) benefits than option 2. Making the fuel containers safer would reduce incidents not only from new heaters (as in option 2), but also with the much larger stock of existing heaters.

ACCC comment: See paragraphs 4.3 and 4.4 above.

4.7 OBPR comment: The analysis of the product ban in Option 5 should note that the potential (gross) benefit is higher than the proposed standard, as it would reduce the risk of incidents from all sources, not just refilling as in Option 2.

ACCC comment: See paragraph 4.3 above.