

Submissions in response to the World Trade Organization notification

1. European Union
2. Battery Association of Japan
3. Japan Electronics and Information Technology Industries Association
4. Federation of the Swiss Watch Industry
5. United States Toy Association
6. British Toy & Hobby Association
7. Asia Toy & Play Association
8. Anonymous submission from an electronic equipment supplier

COMMENTS FROM THE EUROPEAN UNION REGARDING NOTIFICATION

G/TBT/N/AUS/123

DRAFT AUSTRALIAN MANDATORY SAFETY AND INFORMATION STANDARDS - PROPOSED REQUIREMENTS FOR CONSUMER GOODS CONTAINING BUTTON AND COIN CELL BATTERIES AND BUTTON AND COIN CELL BATTERIES THEMSELVES

The European Union (EU) would like to thank the Australian authorities for providing the opportunity to comment on the revised “*Draft Australian mandatory safety and information standards - proposed requirements for consumer goods containing button and coin cell batteries and button and coin cell batteries themselves,*” notified to the TBT Committee on 30 September 2020.

The EU has received information from European stakeholders that there are concerns as to Australia’s use of the term ‘button battery’ in the notified draft, in particular, that the Australian authorities consider the term ‘button battery’ to refer to both coin and button batteries.

In this regard, the EU notes that coin and button batteries are defined separately in ‘IEC 62115 – Safety of Electrical Toys’, which is adopted in both Australia and Europe:

- Coin batteries are small round batteries where the overall height is less than the diameter and having an electrochemical system that contains lithium.
- Button batteries are small round batteries where the overall height is less than the diameter and having an electrochemical system that does not contain lithium.

If the Australian authorities now intend to use the term ‘button battery’ to refer to both coin and button batteries, can the Australian authorities explain the reasons for this?

Moreover, regarding the requirement to have 10 or more representative samples tested, the EU would be interested to have clarification on the legal consequences of this requirement. Does this requirement imply that manufacturers have to withdraw their products from the Australian market, regardless of them being compliant with relevant Australian standards, if they have not had 10 or more representative samples tested?

Furthermore, the EU notes that Australia’s draft information standard includes non-mandatory recommended text. EU exporters are concerned that such an approach could lead to variations in understanding and evaluation by Australia’s enforcement authorities. Would it be possible to explain why the draft information standard includes non-mandatory recommended text and why such recommendations are not set out in another instrument, for example as part of guidelines?

The EU would be grateful if the above-mentioned comments could be taken into account and replied to.

BAJ's comments for "Requirements for button battery safety and information standards"

Requirement for Child resistant packaging	
Scope	<p>IEC 60086-4: 2019 (Safety of Lithium Primary Batteries) specifies that the scope of child resistant packaging is not all size of coin-type lithium batteries but a coin-type lithium batteries of 16 mm or more diameter.</p> <p>The scope was deliberated and decided by IEC TC 35 with the data that fatal accidents by accidental ingestion of coin-type lithium battery occurred with 16 mm or more diameter's.</p> <p>Since staying a coin-type lithium battery at the esophagus is more dangerous than swallowing it to a stomach, it is necessary to make the battery users having correct understanding of the danger of accidental ingestion of coin-type lithium battery. Therefore we request that the scope of the child resistant packaging be changed to a coin-type lithium battery of 16 mm or more diameter.</p>
Construction requirements	<p>IEC 60086-4: 2019 (Lithium Primary Battery Safety) specifies the requirements for child resistant packagings in Annex E (normative). Therefore, in accordance with IEC 60086-4: 2019, we request that the requirements for child resistant packagings be changed to comply with IEC 60086-4: 2019 Annex E.</p>
Transition period	<p>IEC 60086-4: 2019 (Lithium Primary Battery Safety) specifies that the transition period to child resistant packagings is two years from the publication date of the fifth edition. This is the period deliberated and decided by IEC TC 35 as a realistic transition period. Therefore, considering the situation of worldwide product distribution, we request that the transition period to child resistant packagings be changed to 2 years or 24 months from the date of enforcement of this instrument.</p>

BAJ's comments for "Requirements for button battery safety and information standards"

Requirement for warnings and information	
Packaging of button batteries	<p>There are various types of coin and button battery packagings by battery size and packaging size. Among them, there are some packagings in which the battery area occupies a large part of the total packaging surface. In such packagings, if all the requirements ((a), (b), (c) and (d)) are described on the "front" of the packaging, the warning and information must be described with a size that the user cannot immediately identify. And IEC 60086-4: 2019 (Lithium Primary Battery Safety) does not specify "front", "secondary" in the marking requirement / recommendation on the packaging. Therefore, we request that the description of the marking location on the packaging ("front" "secondary") be removed so that warnings and information regarding accidental ingestion can be written on either the front or secondary panel of the packaging. Otherwise, the sentence of "Where limited space is available, (a), (b), (c) and (d) should be located on the front panel of the packaging" is described in a section of Requirements with an auxiliary verb of "should". It causes confusion to users that the sentence is requirement or recommendation. We request to add "informative" to the sentence to ensure that it is recommended.</p>
Transition period	<p>Warnings and information descriptions on packaging will be adapted to the child resistant packaging. IEC 60086-4: 2019 (Lithium Primary Battery Safety) stipulates that the transition period to child resistant packagings is two years from the publication date of the fifth edition. Therefore, in accordance with IEC 60086-4: 2019, we request that the transition period for warnings and information descriptions on packagings be changed to two years or 24 months from the date of enforcement of this instrument.</p>

BAJ's comments for "Requirements for button battery safety and information standards"

Recommendation for warnings and information	
Marking on button batteries	<p>IEC 60086-4: 2019 (Safety of Lithium Primary Battery) specifies that the scope to be marked on the battery is a coin-type lithium battery with a diameter of 20 mm or more.</p> <p>The scope was deliberated and decided by IEC TC 35 with the consideration of battery surface space to display a user-identifiable safety sign size (a diameter of 6 mm or larger).</p> <p>On the other hand, non-lithium button batteries are not subject to marking in the IEC 60086 series at this time because non-lithium button batteries of 20 mm or more diameter are not distributed in market.</p> <p>In order to avoid confusion among battery users, we request that coin-type lithium batteries with a diameter of less than 20 mm and non-lithium button batteries be excluded.</p>
Button batteries supplied on an electronic platform	<p>When providing button batteries through an electronic platform, we request that the button battery warnings be described as follows by adding "on the Web".</p> <p>"Button batteries supplied on an electronic platform should include the warnings on the Web."</p>

Recommendation for warnings and information	
Contact information	<p>The packaging of button batteries is required to have several information specified in IEC 60086-1: 2015(General). Therefore, adding the contact information of Australian Poison Information Center is difficult due to small remaining free space on the packaging. We request a clear description that contact information of Australian Poison Information Center be changed to on the Web rather than on packaging of button batteries as a recommendation.</p> <p>As a concrete statement, we request the sentence of "Contact information of Australian Poison Information Center should be included on the Web."</p>
Safety dispose of button batteries	<p>The packaging of button batteries is required to have several information specified in IEC 60086-1: 2015(General). Therefore, adding the dispose information of button batteries is difficult due to small remaining free space on the packaging. We request a clear description that the dispose information of button battery be changed to on the Web rather than on packaging of button batteries as a recommendation.</p> <p>We also request to provide an example of specific sentence about how to dispose button batteries.</p>

JEITA Proposals on Requirements of button battery safety and information standards

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Dear Sirs or Madams,

We, the Japan Electronics and Information Technology Industries Association (JEITA) are the leading Japanese association that consists of more than 380 manufacturers, suppliers and service providers for the electronics and information technology sector.

Concerning the WTO/TBT NOTIFICATION (G/TBT/N/AUS/123) dated 30 September 2020, Conformity Assessment Systems Committee of JEITA has studied the latest Draft Australian mandatory safety and information standards - proposed requirements for consumer goods containing button and coin cell batteries and button and coin cell batteries themselves.

In order to supply consumer goods (Products Containing Button Batteries) with secure battery compartment and warnings that are appropriate for each product, we respectfully submit our proposals as below:

1. Scope of Consumer Goods (Products Containing Button Batteries) Safety Standard and Consumer Goods (Products Containing Button Batteries) Information Standard

Proposal:

We propose to add the following, which is a quote from AS / NZS 62368.1: 2018, to after the 2 sentences in each **Scope**; 1) "This instrument applies button battery security and compliance testing requirements to consumer goods that use or contain a button battery." (page 1), and 2) "This instrument applies warning and information requirements to consumer goods that use/contain a button battery." (page 5)

These requirements apply to consumer equipment that:

- are likely to be accessible to children; and
- include coin / button cell batteries with a diameter of 32 mm or less.

Reason:

This addition clarifies that the instruments apply to consumer equipment used by children and powered by the button battery that could endanger children.

2. Exemptions of Consumer Goods (Products Containing Button Batteries) Safety Standard and Consumer Goods (Products Containing Button Batteries) Information Standard

Proposal:

We propose to add the following sentence to respective as **Exemptions** (5) (page 1) and (4) (page 5):

Equipment whose button battery is replaced by service personnel.

Reason:

This is because the batteries replaced by service personnel are managed in the same manner as the soldered batteries.

3. Test requirements (Option 2) for Consumer Goods (Products Containing Button Batteries) Safety Standard

Proposal:

We propose to add the following sentence after relevant clause of Option 2 which refers UL4200A.

Ex)

Regarding Battery replacement test stipulated in Clause 6.2 of UL4200A, the torque to be applied to screws alternatively can be an appropriate torque designated by screw manufacturer.

Reason:

Table of Torque for Battery Replacement Test referred by clause 6.2 of UL4200A doesn't have detailed values for the screw which nominal diameter is less than 2.8mm. Some products containing button battery use precision screws, but appropriate torque are not given in this table.

4. Options for Consumer Goods (Products Containing Button Batteries) Information Standard

Proposal:

We propose alternative options in the same manner as Consumer Goods (Products Containing Button Batteries) Safety Standard by adding the following contents before and after the **Requirements for warning and information**.

Conformance options

Suppliers of consumer goods that use/contain a button battery have alternative options to conform to the requirements of this instrument.

- *Applicable industry standards (Option 1): Consumer goods that use/contain button batteries must comply with the referenced clauses of an industry standard deemed to have acceptable warning and information requirements to consumer goods that use/contain a button battery.*
- *Principles-based requirements (Option 2): Consumer goods that use/contain button batteries must comply with principles-based warning and information requirements to consumer goods that use/contain a button battery outlined in the instrument.*

Suppliers of consumer goods that use/contain button batteries that currently adhere to an industry standard that is deemed to have acceptable warning and information requirements to consumer goods that use/contain a button battery, as referenced in the instrument, may continue to comply with those requirements.

Suppliers of consumer goods that use/contain button batteries that do not currently adhere to an industry standard that is deemed to have acceptable warning and information requirements to consumer goods that use/contain a button battery may either comply with the principles-based requirements or the requirements of an industry standard deemed to have acceptable warning and information requirements to consumer goods that use/contain a button battery, as referenced in the instrument.

Requirements for warning and information

Applicable industry standards (Option 1)

Under Option 1, suppliers comply with one of the following industry standards (or set of industry standards) deemed to have acceptable warning and information requirements to consumer goods that use/contain a button battery:

- IEC 62368-1: 2018 Audio/video, information and communication technology equipment – Part 1: Safety requirements – clause 4.8.2
- AS/NZS 62368.1:2018 Audio/video, information and communication technology equipment – Part 1: Safety requirements – clause 4.8.2
- AS/NZS 60065:2018 Audio, video and similar electronic apparatus--Safety requirements--clauses 5.4and 5.5

Principles-based requirements (Option 2)

Under Option 2, suppliers must comply with the following principles-based requirements outlined in the instrument.

Reason:

Clause 4.8.2 in IEC 62368-1:2018 and AS/NZS 62368.1:2018 and Clauses 5.4 and 5.5 in AS/NZS 60065:2018 require information on the safety of button batteries suitable for AV and IT equipment.

5. Requirements for warning and information for Packaged consumer goods of Consumer Goods (Products Containing Button Batteries) Information Standard

Proposal:

We propose to allow flexible position of safety alert symbol changing the sentence below **Packaged consumer goods** (page 5) to the following.

“If the consumer goods are packaged, an internationally recognized safety alert symbol... must be marked on the noticeable position of the packaging of the consumer”

Reason:

Depending on the nature of the product /packaging, each products has different noticeable position, and also, there is a case that front panel of the packaging cannot be use to display safety symbol.

If there is anything to clarify on our proposals and reasons as above, please let us know.

We appreciate very much your consideration on our proposals.

Waiting for your reply.

Sincerely,

November 27, 2020



Yukiko Kawauchi
Chair of JEITA Conformity Assessment Systems Committee

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V. Réf / Ihr Zeichen / Your Ref :
N. Réf / Unser Zeichen / Our Ref : 2020I0140

Biel/Bienne, 27 November 2020

Position letter of the Federation of the Swiss Watch Industry FH on the public consultation on the ACCC requirements for safety and information standards for consumer goods containing button batteries and button batteries themselves

Dear Sir/Madam,

We refer to the public consultation on the ACCC requirements for safety and information standards for consumer goods containing button batteries and button batteries themselves, and thank you for giving us the opportunity to comment on this issue.

1. Products set with gemstones should be exempted

Some pieces of fine jewellery with a time display, as well as certain luxury watches, are set with gemstones. And some of them have button batteries inside.

Such pieces are usually unique or produced in very small series. They are very expensive, and often cost tens of thousands of Australian dollars, sometimes hundreds or even millions. Reserved for very specific uses (like prestigious ceremonies or formal dinners), and kept the rest of the time in safe box, such products set with gemstones are never accessible to children.

For such products set with gemstones, it is also not economically reasonable to produce an item to apply shock tests to check if the battery is properly attached. Not to mention that "10 or more representative samples of the consumer goods must be tested" accordingly to the proposed ACCC requirements for safety and information standards.

Such timepieces have battery compartments that are safely secured and as good as other quartz watches. But they will fail the required tests, because the set gemstones cannot withstand the shocks required by the listed applicable industry standards.



Therefore, luxury timepieces set with gemstones should benefit from an exemption in the same way as the other products mentioned on page 1.

2. Tests should be able to be carried out on the battery compartment models

In many applications, it is common to use the same battery compartment lock model for different products ranges. In such a case, there is no reason to test each product individually to check that the compartment is secure and does not release the battery during normal and foreseeable use and abuse conditions. This would lead to high analysis costs without providing additional consumer security.

It should therefore be allowed to carry out the tests on the battery compartment models, in such cases.

Such a proposal also provides an elegant solution to the above-mentioned point No. 1, regarding the products set with gemstones. The battery compartment model of such products could thus be validated on non-set items, which would result in a much lower cost of analysis and would avoid non-compliance due to the application of unsuitable shocks to the set gemstones.

3. Test reports supporting the compliance will only have to be made available upon request

It should be confirmed that laboratory test reports supporting the compliance of products will only have to be made available to Australian enforcement authorities upon request, and not on a systematic basis during import procedures.

Chemical test reports should not be requested on a systematic basis during import procedure at customs, because this would create an unnecessary administrative burden for high-end watch brands, as well as many other industries. And this would be contrary to the principle applied by European authorities that manufacturers must conduct chemical testing only if they have reasons to think that their products could be non-compliant to EU legal requirements.

4. Add ISO 1413:2016 to the list of applicable industry standards

Regarding ACCC's proposed requirements for secure battery compartments, we respectfully draw the attention on the fact that there is a large variety of consumer goods containing button cell batteries, each with their own specific qualifications. In the specific case of watches, a standard ensuring that the watch will resist to shocks already exists. It is the standard ISO 1413:2016 which specifies the minimum requirements for shock-resistant wrist watches and describes the corresponding test method.

The impact test according to UL 4200A is used to verify the safety of the battery compartment and has been defined for specific product categories, but his application to other categories of products may be inappropriate.

In the case of quartz watches, the fact that the button cell compartment is protected from shocks during the use of the watch (the bottom of the watch case where the battery compartment lies is worn in contact with the wrist of the wearer of the watch) and that the watch bracelet is also protecting the bottom of the watch case in case of accidental drop of the watch, should also be considered.

In conclusion, we request to add the ISO 1413:2016 standard to the list of applicable industry standards under Option 1.

We thank you for taking our opinion into account and will be happy to provide further information if necessary.



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27 November 2020

DRAFT

Australian Competition and Consumer
Commission

**Re: Notification G/TBT/N/AUS/123 - Safety and Information Standards for Consumer Goods
Containing Button Batteries and Button Batteries Themselves**

Dear Sir/Madam:

These comments are provided on behalf of The Toy Association and the U.S. toy industry in response to the notifications to the World Trade Organization (WTO/G/TBT/N/AUS/123) of 30 September 2020, regarding the proposed Safety and Information Standards for Consumer Goods Containing Button Batteries and Batteries Themselves.

We appreciate the opportunity to comment on the proposed regulation and commend the Australian Competition and Consumer Commission (ACCC) for its efforts to ensure the safety of Australian consumers – particularly children – and we share that as a priority. Indeed, for children’s toys, Australia was among the first to adopt the international ISO 8124 Toy Safety Standard as a national standard (AS/NZS ISO 8124) and, in this regard, Australia has served as a global leader in demonstrating the importance of promulgating consistent, harmonized toy safety standards that protect the safety of consumers everywhere – consistent with its obligations under the World Trade Organization (WTO) Agreement on Technical Barriers to Trade (TBT).¹

However, we have some significant concerns regarding the proposed Requirements of Button Battery Safety and Information Standards (“proposal”), as described in WTO TBT Notification AUS/123, as the proposal deviates from international norms for button and coin cell batteries and products that utilize them, and in doing so, poses potential barriers to trade and is inconsistent with WTO TBT principles².

¹ WTO TBT Agreement, 2.6-2.7

² WTO TBT Agreement, 2.6 - 2.7

Toys are sold globally with generally the same specifications, facilitated by an increasingly aligned set of international standards. Many of our members supply toys to Australia and a portion of these are powered by small batteries. Our concerns with the proposed regulations are as follows:

Terminology:

Coin and button batteries are defined separately in the standards of the International Electrotechnical Commission (IEC 62115 Safety of Electrical Toys), a standard adopted in both Australia and Europe, yet the proposed ACCC regulation blurs the definitions and uses the terms interchangeably³ in a way that is inconsistent with international norms and with global incident data related to batteries.

Importantly, IEC 62115 distinguishes the two battery technologies and terms in this way:

- Coin batteries are small round batteries where the overall height is less than the diameter and having an electrochemical system that contains lithium.
- Button batteries are small round batteries where the overall height is less than the diameter and having an electrochemical system that does not contain lithium.

Further, global incident data make it clear that while there is a significant hazard with coin batteries,⁴ there have been very few incidents with button batteries.

As defined in the proposal, using the term “button battery” in reference to coin cell batteries will create significant confusion and may actually be detrimental to consumer safety. The distinction is critical – in order for medical professionals to clearly understand the different treatment protocols recommended for each technology – and for manufacturers and consumers to recognize button batteries as a safer option for goods requiring small batteries.

We note that the proposal outlines differing requirements for the different types of batteries, however, understanding and complying with the requirements is made unnecessarily difficult and complex with the incorrect terminology – and may result in critical, unintended consequences. We, respectfully, urge ACCC to highlight the differences between “coin” and “button” batteries and correct the terms throughout the proposal, consistent with existing international standards.

Quantity of Samples for Testing:

The proposed regulation requires that “10 or more representative samples of the consumer good” are required for testing to demonstrate compliance. Under this stipulation, however, it is plausible that a supplier with 10 samples testing successfully could still have non-conforming product on the market, and conversely, that without enough samples undergoing testing, a supplier could be in the position of having to withdraw compliant product from the market.

We, respectfully, recommend that ACCC requires compliance with the referenced standard – while making it clear to manufacturers that non-compliant product must not be sold. Manufacturers typically employ quality assurance processes and protocols to ensure that products comply with applicable

³ As defined under “Scope” in the proposal: “Button battery means... and includes button cell and coin cell batteries.”

⁴ <https://www.poison.org/battery/stats>

standards and requirements; the ACCC proposed regulation should allow manufacturers the ability to establish necessary internal protocols to ensure compliance with this proposed battery requirement, and that production continues to represent samples tested.

Marking Requirements:

We note that the proposed regulation includes marking requirements that differ from those in other jurisdictions, as well as different from standards adopted by Australia.

Toy markings are mandated in international toy standards ASTM F963 and CEN Standard EN 62115, for toys sold in the U.S. and Europe/United Kingdom, respectively. These requirements have proven to be effective in informing consumers of the hazards – and of actions to be taken in the case of misuse or other incident. Notably, the marking requirements differentiate between button and coin cell batteries, based on the different risk profiles for each. Similarly, Australia has adopted AS/NZS 62115:2018 Electric Toys Safety, which is well aligned with IEC 62115 (and with EN 62115). Further, AS/NZS 62115:2018 covers the essential safety requirements in AS/NZS 3820 that could be applicable for electric toys.

However, with the newly proposed marking requirements for Australia, products using button or coin cell batteries will require special treatment and prompt a disruption in existing, optimized supply chain processes – specific to the Australian market and out of alignment with other markets and these referenced standards. More than simply adding a label, such a deviation from international norms will require product to be reworked for Australia, and require costly, complex changes to supply chain logistics (including, but not limited to, re-routing, warehousing and segregation of product, conformity assessment, labeling and re-entry into the marketplace) – all specific to Australia.

Such deviations from international norms increase inefficiency in the marketplace, product costs, and the likelihood of non-compliance – and do not necessarily enhance consumer safety. Instead, we, respectfully, urge ACCC to consider recognizing the existing marking requirements in AS/NZS 62115 (or its EN or ISO versions, or ASTM F963) as acceptable to satisfy compliance with the proposed regulation.

Use of non-mandatory/recommended text:

The proposed information standard includes non-mandatory recommended text and we are concerned that this will lead to variations in understanding and evaluation.

Australia's multi-regulator enforcement model for mandatory standards under the Australian Consumer Law underscores the need for clarity: toy manufacturers have experienced situations in which other regulators have suggested recalls for products that did not contain text recommended in the voluntary industry code for products containing button cell batteries. We expect that non-mandatory recommendations included in a regulatory instrument will prompt even greater confusion. As such, we urge ACCC to remove the recommendations from the regulation and, instead, include non-mandatory text in guidelines/a supplemental guidance document made available separately, via the ACCC website.

Conclusion:

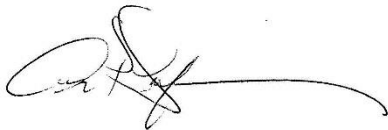
The Toy Association commends ACCC's efforts related to consumer safety, particularly the safety of children. We appreciate the opportunity to provide comments on the proposed regulation and information related to button and coin cell batteries, consistent with Article 2 of the World Trade Organization (WTO) Agreement on Technical Barriers to Trade (TBT).

As part of the WTO TBT obligations, WTO members are committed to "harmoniz(e) technical regulations" and "give positive consideration to accepting as equivalent technical regulations of other Members, even if these regulations differ from their own, provided they are satisfied that these regulations adequately fulfill the objective of their own regulations."⁵

In keeping with these principles, The Toy Association urges ACCC to consider aligning its proposed requirements and information standards for button and coin cell batteries with existing international standards and norms, such as ASTM F963, EN 62115 and IEC 62115, as referenced in these comments. Doing so would increase the likelihood of compliance by reducing market-specific differing requirements and thereby better and more efficiently protect consumers – while upholding WTO TBT principles.

The Toy Association and our members offer our continued expertise and support as you consider the proposed battery regulations, and the impact on consumers and industry. Please do not hesitate to contact me or my colleague Joan Lawrence if you have questions or would like further information. I can be reached at akaufman@toyassociation.org and Joan at jlawrence@toyassociation.org.

Sincerely,



Alan P. Kaufman
Senior Vice President, Technical Affairs

About The Toy Association and the toy industry:

The Toy Association is the North American based trade association; our membership includes more than 950 businesses – from inventors and designers of toys to toy manufacturers and importers, retailers and safety testing labs – all involved in bringing safe, fun toys and games to children. The toy sector is a global industry of more than US\$90 billion annually, and our members account for more than half this amount.

Toy safety is the top priority for The Toy Association and its members. Since the 1930s, we have served as leaders in global toy safety efforts; in the 1970s we helped to create the first comprehensive toy safety standard, which was later adopted under the auspices of ASTM International as ASTM F963. The ASTM F963 Toy Safety Standard

⁵ WTO TBT Agreement 2.6 and 2.7

has been recognized in the United States⁶ and internationally as an effective safety standard, and it serves as a model for other countries looking to protect the health and safety of their citizens with protective standards for children.

The Toy Association is committed to working with legislators and regulators around the world to reduce barriers to trade and to achieve the international alignment and harmonization of risk-based standards that will provide a high level of confidence that toys from any source can be trusted as safe for use by children. Standards alignment assures open markets between nations to maximize product availability and choice.

⁶ In 2008, the President and U.S. Congress recognized the effectiveness of the ASTM F963 Toy Safety Standard by adopting it as a mandatory consumer product safety rule for all toys sold in the U.S. market, under the provisions of the Consumer Product Safety Improvement Act (CPSIA).



Notification G/TBT/N/AUS/123 - Safety and Information Standards for Consumer Goods Containing Button Batteries and Button Batteries Themselves

Introduction and background

Founded in 1944, the British Toy & Hobby Association (BTHA) is the official organisation representing toy manufacturers in the UK. The BTHA has 145 members ranging from international toy giants to small family-run businesses that together account for more than 85% of the safe and reputable UK toy market. Membership of the BTHA shows the member's commitment to adhere to the BTHA Code of Practice under the umbrella of the Lion Mark promoting the highest standards of safety and quality in the manufacture of toys, games and playthings.

Aside from officially representing the interests of Britain's toy manufacturers, the BTHA also has wider priorities, including promoting the benefits of play through the Make Time 2 Play campaign, raising money via the industry's charity the Toy Trust to help disadvantaged children, and organising the annual Toy Fair, which showcases the British toy industry.

We have become aware of the above notification from Australia on proposals by the Australian Competition & Consumer Commission, (ACCC), to introduce mandatory safety and information standards for consumer goods containing button batteries and button batteries themselves.

Toys are sold globally with similar specifications, facilitated by an increasingly aligned set of international standards. Many of our members supply toys to Australia and a proportion of these are powered by button batteries and we would see notified proposals as a barrier to that trade.

We are concerned that the requirements for consumer goods containing button batteries advised in the ACCC notification appear to be at odds with those in other jurisdictions and so raise technical barriers to trade without improving the safety of these products.

Could we ask for the Department of International Trade to submit our concerns as outlined in this document to the Australian contact point please?

It should be noted that toy safety standards address the hazards presented by these cells with warnings and requirements for security of battery compartments, directly addressing the primary concerns of the proposals.

Specific Technical Concerns

1. Terminology

We note the ACCC's intention to use the term 'button battery' to refer to both coin and button batteries.

In fact, coin and button batteries are defined separately in IEC 62115 – Safety of Electrical Toys which is adopted in both Australia and Europe.

- Coin batteries are small round batteries where the overall height is less than the diameter and having an electrochemical system that contains lithium.
- Button batteries are small round batteries where the overall height is less than the diameter and having an electrochemical system that does not contain lithium.

Global incident data (ref. <https://www.poison.org/battery/stats>) makes it clear that there is a significant hazard with coin batteries. There have been a very small number of incidents with button batteries.

The use of the term button battery for coin batteries will create confusion, be detrimental to consumer safety and potentially have other unintended negative consequences, e.g. medical practitioners should understand the different treatment procedures recommended for button and coin batteries; consumers and manufacturers should recognise button batteries as a safer option for goods requiring small batteries.

We note that there are differences in requirements for the different types of battery and the draft is made significantly more complex by having to handle the incorrect terminology.

We would urge the ACCC to highlight the differences between coin and button batteries and encourage the use of standardised international terms in their jurisdiction.

2. Specifying a quantity of samples to be tested

We note that the ACCC intend to specify that 10 or more samples be tested. We would question whether if this proposal adds to the safety of products, especially those already addressed by international standards. For example, if a supplier has 10 good tests would that allow him to sell non-conforming goods in the market; conversely, would a supplier have to withdraw conforming product from the market just because they hadn't done 10 tests?

We encourage the ACCC to simply require conformity with the referenced standard so that suppliers would understand that non-conforming product would be in breach of the requirement and in need of corrective measures. Manufacturers will use normal quality assurance processes to ensure that production continues to represent what was tested.

3. Marking requirements

We note that the draft marking requirements are different to those in other jurisdictions and different to those in the standards that have been adopted or created in Australia. The required markings for toys in ASTM F963 and EN 62115 are mandatory in the US and UK/EU respectively. They have been shown to be effective in informing consumers of the hazards and actions to be taken. They differentiate between button and coin batteries based on the different risk profiles of the different batteries.

This means that product using button or coin batteries will need to be reworked for Australia and the disruption to existing, optimised supply chain processes will make this very expensive,

i.e. much more than simply adding a label. As previously mentioned, this modification will add little or nothing to the safety of the products.

4. Recommendations

The ACCC draft information standard includes non-mandatory recommended text and we are concerned that this will lead to variations in understanding and evaluation. Australia has a multi-regulator model for enforcement of mandatory standards made under their Australian Consumer Law. There has been some experience of different regulators suggesting recalls for products that didn't contain recommended text in the voluntary industry code for products containing button batteries. We anticipate that the confusion will be even greater for recommendations made in a regulatory instrument.

We would urge the ACCC to remove the recommendations from the mandatory standard and instead add them to guidelines, e.g. on their product safety web pages.

Yours sincerely

A handwritten signature in black ink, consisting of several overlapping loops and a series of vertical lines on the left side, enclosed within a faint circular outline.

Natasha Crookes
Director of Public Affairs and Communications

Department of Foreign Affairs and Trade
Technical Barriers to Trade section
Australia

By email: tbt.enquiry@dfat.gov.au

Re: Notification G/TBT/N/AUS/123 - Safety and Information Standards for Consumer Good Containing Button Batteries and Button Batteries Themselves

29th November 2020

Dear Sir/Mdm,

On behalf of the Asia Toy and Play Association (ATPA), we would like to submit our comments regarding the **WTO Notification G/TBT/N/AUS/123 - Safety and Information Standards for Consumer Goods Containing Button Batteries and Button Batteries Themselves**.

ATPA is a coalition of leading toy industry players representing some global and local toy manufacturers and retailers. Furthermore, we collaborate with the Australian Toy Association (ATA) as well as other industry peers such as the Toy Association (TA) in the United States, the Canadian Toy Association (CTA), the Toy Industries of Europe (TIE) and the Hong Kong Toy Council (HKTC).

Toys sold globally are in line with international standard and largely follow the same specifications. Australia, being one of the largest and most developed toy market in Asia Pacific welcomes toys from many of our members and the trade value is worth multi-million dollars.

According to the WTO notification, we understand that the Australian Competition and Consumer Commission (ACCC) plans to introduce mandatory safety and information standards for consumer goods containing button batteries and button batteries themselves. These proposed requirements concern us as they seem to contradict existing ones in other jurisdictions. These effectively raise technical barriers to trade without enhancing product safety. We would kindly request that these concerns, as detailed below, could be considered:

- *Terminology*

We acknowledge the ACCC's intention to use the term 'button battery' broadly to include both coin and button batteries. However, coin and button batteries are defined separately in IEC 62115 – Safety of Electrical Toys which is adopted in Australia and Europe. According to IEC 62115 the distinction between the two types are described as such:

- Coin batteries are small round batteries where the overall height is less than the diameter and having an electrochemical system that contains lithium.
- Button batteries are small round batteries where the overall height is less than the diameter and having an electrochemical system that does not contain lithium.

Global incident data (ref. <https://www.poison.org/battery/stats>) clearly show that coin batteries pose significant risks. In contrast, incidents attributed to button batteries have been relatively sparse.

Thus, using the term button battery as an umbrella term will create confusion, be detrimental to consumer safety and potentially have other unintended negative consequences, e.g. medical practitioners should understand the different treatment procedures recommended for button and coin batteries; consumers and manufacturers should recognise button batteries as a safer option for goods requiring small batteries.

We also note the differences in requirements for the various types of battery and the draft is made significantly more complex by having to handle the incorrect terminology. Our recommendation therefore, is for the ACCC to distinguish between coin and button batteries so as to be in alignment with the correct terms in their jurisdiction.

- *Specifications on the quantity of samples to be tested*

We note that the ACCC intends to specify that 10 or more samples be tested. However, this requirement appears to have some operational flaws, e.g. if a supplier has 10 good tests would that allow him to sell non-conforming goods in the market? On the other hand, would a supplier have to withdraw conforming products from the market if they have failed to conduct these 10 tests?

Alternatively, the ACCC may simply require conformity with the referenced standard. This would make it clear to suppliers what would be considered non-conforming products that need to be withdrawn from the market. Manufacturers will use normal quality assurance processes to ensure that production continues to represent what was tested.

- *Marking requirements*

We note that the draft marking requirements are different from those in other jurisdictions and in standards that have been adopted or created in Australia. The required markings for toys in ASTM F963 and EN 62115 are mandatory in the US and UK/EU respectively. These have proven to be effective in informing consumers of the hazards and steps to take on how to counter hazards. They also distinguish between button and coin batteries based on the differences in risk profiles per type.

This means that products using button or coin batteries will need to be reworked for Australia. As a result, the disruption to existing, optimised supply chain processes will incur significant costs.

- *Recommendations*

The ACCC draft information standard includes non-mandatory recommended text and we are concerned that this will lead to variations in understanding and evaluation. Our members have experienced multiple regulators suggesting recalls for products that failed to include such recommended texts in the voluntary industry code for products containing button batteries. We anticipate that the confusion will be even greater for recommendations made in a regulatory instrument. We would urge the ACCC to remove the recommendations from the mandatory standard and instead add them to guidelines, e.g. on their product safety web pages.

We thank you in advance for the consideration given and remain at full disposal for any further clarifications you may have. I can be contacted at matteo@atpa.asia.

Yours sincerely

Matteo Vezzosi
Executive Director
Asia Toy & Play Association

Proposals and comments to ACCC

Our proposal:

Proposal 1. We propose to clarify the structure of Australian law that can enforce this standard and the position of this standard.

Our comments:

Without the following basic provisions, it is unknown how we can guarantee our products.

- How to confirm that the product complies with this standard?
- Confirmation / certification by Australian authorities?
- Conformity confirmation by manufacturer / supplier?
- How to carry out market inspection?

etc.

Proposal 2. We propose that the entry into force plan of the "Requirements of button battery safety and information standards" is after the mandatory date of AS/NZS 62368.1: 2018 (IEC 62368-1: 2014 (ED.2) MOD) or after the enforcement date of IEC 62368-1: 2018 Ed.3 in Australia.

Our comments: When is the mandatory date for the "Requirements of button battery safety and information standards"?

AS/NZS 62368.1: 2018 mandatory date and IEC62368-1: 2018 Ed.3 enforcement date is still a long way off. The entry into force plan for the "Requirements of button battery safety and information standards" should be after the mandatory date of AS/NZS 62368.1: 2018 or the enforcement date of IEC 62368-1: 2018 Ed.3.

Proposal 3. We propose that the "Requirements of button battery safety and information standards", AS/NZS 62368.1: 2018 (IEC 62368-1: 2014 (ED.2) MOD) and IEC 62368-1: 2018 Ed.3 standard completely match the scope and exclusion requirements of the target button batteries. Or if an equipment meets with the IEC 62368-1 ED.2 or ED.3 standard, it is considered a safe equipment and we propose to exclude it from the "Requirements of button battery safety and information standards". In other words, we propose that in the exemption section of the "Consumer Goods (Products Containing Button Batteries) Safety Standard" and the "Consumer Goods (Products Containing Button Batteries) Information Standard" mention the following sentence
"the products meets to AS/NZS 62368.1: 2018 (IEC 62368-1: 2014 (ED.2) MOD) or IEC 62368-1: 2018 Ed.3 standard is excluded".

Our comments: The scope and exclusion requirements for button batteries subject to the "Requirements of button battery safety and information standards" do not exactly match IEC 62368-1 Ed.2 and Ed.3. They need to be the same to avoid confusion.

For example;

- The "Requirements of button battery safety and information standards" does not mention the quantified size of button batteries.
- In IEC 62368-1 Ed.2 and Ed.3, if the equipment is commercially available but not intended for use in areas with children, it is exempt if one condition is met.

Please see the table below.

From IEC62368-1: 2018 Ed.3:

4.8.1 General

These requirements apply to equipment, including remote controls, that:

- are likely to be accessible to children
- ; and
- include coin / button cell batteries with a diameter of 32 mm or less.

These requirements do not apply to:

- professional equipment;
- equipment for use in locations where it is unlikely that children will be present; or

From requirements of button battery safety and information standards:

Scope

This instrument applies button battery security and compliance testing requirements to consumer goods that use or contain a button battery.

Button battery means a small, single cell battery having a diameter greater than its height and includes button cell and coin cell batteries.

Exemptions

The following products are exempt from the requirements:

– equipment containing coin / button cell batteries that are soldered in place.

(1) Second hand consumer goods – that is, consumer goods that were first supplied before the requirements of the instrument become mandatory

(2) Hearing aids and hearing instruments – that is, equipment that picks up sound and delivers processed sound to the ear canal through air-conduction

(3) Professional equipment – that is, equipment to which all of the following applies:

o the equipment is intended to be used in trades, professions or industries; and

o the equipment is not intended for sale to the general public; and

o the equipment is not intended to be used where children are present.

(4) Audio-visual and information and communications technology equipment containing button batteries that are soldered in place.

Proposal 4. We cannot understand the relationship between "Conformance options", "Applicable industry standards" and "Requirements for compliance testing" correctly for the "Consumer Goods (Products Containing Button Batteries) Safety Standard". If our understanding below is correct, we propose that you modify the content and structure to make it easier for everyone to understand.

Our understanding: The "Applicable industry standards (Option 1)" and the "Test requirements (Option 1)" are paired. If the products comply with the applicable industry standard, there is no need to perform "the compliance tests of the nominated industry standard" mentioned in "Test requirements (Option 1)".

Is this understanding correct?

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From Applicable industry standards (Option 1)

Under Option 1, suppliers comply with one of the following industry standards (or set of industry standards) deemed to have acceptable button battery security and compliance testing requirements:

- IEC 62368-1: 2018 Audio/video, information and communication technology equipment – Part 1: Safety requirements – clauses 4.8.3, 4.8.4, 4.8.5
- AS/NZS 62368.1:2018 Audio/video, information and communication technology equipment – Part 1: Safety requirements – clauses 4.8.3, 4.8.4, 4.8.5
- AS/NZS 60065:2018 Audio, video and similar electronic apparatus--Safety requirements – clauses 12.7.2, 12.7.3, 12.7.4
- IEC 62115:2017 Electric toys – Safety – clause 13.4.1, 13.4.2, 13.4.6 and ISO 8124- 1:2018 Safety of toys – Part 1: Safety aspects related to mechanical and physical properties – clause 5.24
- AS/NZS 62115:2018 Electric toys – Safety – clause 13.4.1, 13.4.2, 13.4.6 and AS/NZS 8124.1:2019 Safety of toys – Part 1: Safety aspects related to mechanical and physical properties – clause 5.24
- AS/NZS 60598.1:2017 Luminaries Part 1: General requirements and tests – clause 4.101.1 and 4.101.2
- UL 4200A UL Standard for Safety for Products Incorporating Button or Coin Cell Batteries of Lithium Technologies – section 5 and 6 Section 108 of the Australian Consumer Law, a supplier is required to nominate the applicable safety standard on request by a regulator.

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From Test requirements (Option 1)

Under Option 1, suppliers must perform the compliance tests of the nominated industry standard that is deemed to have acceptable button battery security and compliance testing requirements, as referenced in the instrument.

During or after the completion of the manufacture or processing of the consumer goods 10 or more representative samples of the consumer goods must be tested in accordance with, and meet the compliance test requirements of, the nominated industry standard.

Where a specific compliance test in an industry standard is inappropriate to apply to a given product, an alternate compliance test may be applied on the condition that the compliance tests applied to the given product ensure that button batteries are secure and shall not be accessible to children or become liberated from the product when subjected to normal and foreseeable use and abuse conditions.

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Proposal 5. We cannot understand the relationship between "Conformance options", "Applicable industry standards" and "Requirements for compliance testing" correctly for the "Consumer Goods

(Products Containing Button Batteries) Safety Standard". If our understanding below is correct, we propose that you modify the content and structure to make it easier for everyone to understand.

Our understanding: The "Principles-based requirements" and the "Requirement to test for use and abuse" are paired. If the products comply with the "Principles-based requirements", there is no need to "the compliance tests outlined in the instrument that have been selected from a range of industry standards" mentioned in "Test requirements (Option 2)".

Is this understanding correct?

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Principles-based requirements (Option 2)

Under Option 2, suppliers must comply with the following principles-based requirements outlined in the instrument:

- (1) Consumer goods that use/contain button batteries that are intended to be replaced by the consumer shall have secure battery compartments that are designed to eliminate child accessibility to the button batteries before and after battery replacement.
- (2) Consumer goods that use/contain button batteries (whether or not the batteries are intended to be replaced) shall be secure and not release the batteries during normal and foreseeable use and abuse conditions.
- (3) Consumer goods that use/contain button batteries that are secured by screws or similar fasteners shall be captive to ensure that they remain with the battery compartment door, cover or equipment.

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Test requirements (Option 2)

Under Option 2, suppliers must perform the compliance tests outlined in the instrument that have been selected from a range of industry standards.

Requirement to test for use and abuse - consumer goods with non-replaceable button battery

10 or more representative samples of the consumer goods must be tested in accordance with section 6.2 and 6.3.2 to 6.3.4 of UL 4200A UL Standard for Safety for Products Incorporating Button or Coin Cell Batteries of Lithium Technologies;

Requirement to test for use and abuse – consumer goods with replaceable button battery

(a) 10 or more representative samples of the consumer good must be tested in accordance with section 6.2 and 6.3.2 to 6.3.4 of UL 4200A UL Standard for Safety for Products Incorporating Button or Coin Cell Batteries of Lithium Technologies;

(b) those samples, after that testing, must be compliant with section 6.3.5 of UL 4200A UL Standard for Safety for Products Incorporating Button or Coin Cell Batteries of Lithium Technologies.

Requirement to test consumer goods with non-replaceable button battery for secureness

10 or more representative samples of the consumer good must meet the test set out in section 6.4 of the UL 4200A UL Standard for Safety for Products Incorporating Button or Coin Cell Batteries of Lithium Technologies.

Requirement to test consumer goods with button battery in compartment secured with screws or similar fasteners.

10 or more representative samples of the consumer good must meet the test set out in clause 13.4.6 of IEC 62115:2017 Electric toys-Safety.

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Proposal 6. We propose that the requirement to display information on the products, including button batteries, is limited to products intended for battery replacement or products with a structure that allows access to the batteries. In other words, we hope that the conditions to be displayed will be the same as IEC62368-1 Ed.2 and Ed.3.

Our comments: In IEC 62368-1 Ed.2 and Ed.3, it is stipulated that information on the product is unnecessary in the following cases.

"The instructional safeguard is not required where these batteries are not intended to be replaced or are only accessible after damaging the equipment."

On the other hand, the "Consumer Goods (Products Containing Button Batteries) Information Standard" requires the display of information on the all products containing button batteries to which the exclusion does not apply.

**From IEC62368-1: 2018 Ed.3
 4.8.2 Instructional safeguard**

The instructional safeguard is not required where these batteries are not intended to be replaced or are only accessible after damaging the equipment.

From Requirements of button battery safety and information standards

Not mentioned

