

Dear Stakeholder

The Australian Competition and Consumer Commission (ACCC) is seeking further comment as it reviews the mandatory safety standard for bunk beds (**the Mandatory Standard**).

We seek your views on:

- updating the **Mandatory Standard** to permit compliance with the latest edition of the voluntary Australian standard (**AS/NZS 4220:2010**)
- allowing compliance with three comparable overseas standards (**ASTM F1427-21; BS EN 747-1: 2012; US CFR Part 1513**).

The **Mandatory Standard** could reference each of these four voluntary standards in full, without amendments, or in part, mirroring the requirements in the existing mandatory standard which currently address the key safety hazards associated with bunk beds. Suppliers would be permitted to comply with any referenced standard.

Review of the Mandatory Standard

The current **Mandatory Standard** is the *Consumer Protection Notice No.1 of 2003 Consumer Product Safety Standard: Bunk Beds*. It is based on the 1994 edition of the voluntary Australian and New Zealand standard, **AS/NZS 4220 Bunk beds**.

The **Mandatory Standard** regulates the 'supply', in trade or commerce, of bunk beds by way of sale, exchange, lease, hire or hire-purchase

Bunk beds are those products that are supplied as an item of furniture or part of an item of furniture, not including portable bunk beds designed for camping or bunk beds that are built-in fitments in caravans, camper trailers, tent trailers, camper vans, motor homes, trains, ships, aircraft and other types of conveyances.

More specifically a bunk or elevated bed is currently defined as:

(a) A set of components that are assembled or are ready for assembly into single beds or double/single combination beds which will be stacked one over the other; or

(b) Any single bed, other than a hospital bed, where the upper surface of the mattress base is at least 800 mm above the floor surface

Policy options

The ACCC's preliminary position is to reference the most current edition of the Australian voluntary standard in a revised **Mandatory Standard**. In addition though, consideration will be given to referencing overseas standards.

The ACCC is considering updating the **Mandatory Standard** to permit compliance with the following voluntary/mandatory standards:

- **AS/NZS 4220:2010 Bunk beds and other elevated beds**
- **EN 747-1:2012+A1:2015 Furniture. Bunk beds and high beds. Safety strength and durability requirements**
- **ASTM F1427-21e1 Standard Consumer Safety Specification for Bunk Beds**
- U.S. Consumer Product Safety Commission (**16 C.F.R Part 1513**) **Safety Standard for bunk beds** (note this is a mandatory standard in the U.S. based on an earlier version of the ASTM standard).

Option 1a – Revise the mandatory standard in line with sections of the current Australian voluntary standard

This option would involve referencing certain requirements contained in the 2010 version of the Australian voluntary standard which address the same key safety requirements in the current **Mandatory Standard**, along with some additional safety requirements that are considered necessary for improving the safety of bunk beds and reducing the risk of injury or death to bunk bed users.

The current (2010) version of **AS/NZS 4220** contains some clarifications and improvements to the safety requirements for bunk beds and elevated beds. These include:

- Redefining the minimum height of a bunk or elevated bed to include beds the upper surface of the mattress base is more than 700mm from the floor (currently 800mm)
- Improving the strength and integrity tests for mattress base supports and guard rail stability
- Clarifying and simplifying entrapment requirements and guard rail height marking
- Establishing basic requirements for access openings and access devices
- Age warnings providing safety recommendations for use.

Benefits

Referencing the current version of **AS/NZS 4220** will provide certainty to suppliers and remove confusion around the mandatory standard continuing to reference an outdated 1994 standard. It will also reduce compliance duplication for suppliers who may choose to meet the requirements of the benchmark 2010 Australian standard in addition to the **Mandatory Standard**.

Elevated beds which have entered the market at just under the current 800mm measurement will be within scope of the revised standard which would address falls from these products. Protection from weak mattress base supports and guard rails will be enhanced with improved strength and durability requirements, also reducing the likelihood and instance of falls. Age recommendation warnings on the products will alert consumers to appropriate and safe usage.

Limitations

This option only allows compliance with selected clauses in the current Australian voluntary standard, which is now 12 years old. It does not reference all sections of the Australian standard and does not allow compliance options for suppliers which include references to other recognised international standards and regulations, thus denying suppliers choice and potentially restricting choice for consumers. The cost of testing may increase slightly given the improvements and additional requirements in the revised standard.

Option 1b – Adopt the entire current Australian voluntary standard

This option would incorporate the changes identified in Option 1a but would simply reference the entirety of the Australian voluntary standard, **AS/NZS 4220:2010**.

In addition to the improvements listed above a revised mandatory standard would include requirements for:

- Construction – heights and play features
- Footholds

- Sharp edges and points
- Stability tests for fastenings and tests for static and impact loads on guard rails and access treads
- Information and labelling

Benefits

Referencing the whole of the Australian voluntary standard would in effect simplify the understanding for suppliers of what is required to comply with the mandatory standard. Rather than selectively isolating specific sections from the voluntary standard and matching requirements between the **Mandatory Standard** (via the CPN) and the voluntary standard, suppliers could comply with the entire voluntary standard.

Referencing the entire Australian voluntary standard would establish a greater safety benchmark for bunk beds and elevated beds supplied to the Australian market.

Limitations

This option does not allow compliance for suppliers who may wish to reference other recognised voluntary overseas standards, thus denying suppliers choice and potentially restricting choice for consumers. The cost of testing may increase given the improvements and additional requirements in the revised standard.

Option 2a – Revise the mandatory standard in line with the Australian standard as well as comparable sections of overseas standards

This option would allow compliance with the relevant revised clauses of the Australian voluntary standard, as in Option 1a above, in addition to compliance with similar comparable clauses of the international standards.

This would include improvements listed in Option 1a and the matching requirements in the EN standard, ASTM standard and the US CFR regulation.

Benefits

This option would produce the same benefit as listed in Option 1a. The bulk of bunk beds are imported, allowing suppliers to source and sell bunk beds that comply with international standards would offer consumers greater choice. This could increase competition in the market, reduce prices and, given there are additional provisions being mandated, improve safety.

Limitations

This option will have the same basic limitations as in Option 1a. Suppliers would still have to comply with selected sections of the mandatory standard and match the mandatory requirements with the respective standards. Adoption of this option may create some industry confusion about which standard to select when supplying bunks and elevated beds into Australia.

Because of the acceptance of multiple voluntary standards, the enforcement of the amended mandatory safety standard could potentially be more difficult for regulators than the current mandatory safety standard.

Option 2b – Adopt the entirety of the Australian standard and overseas standards

This option would incorporate the changes identified in Option 2a but would simply reference the entirety of either the Australian voluntary standard, **AS/NZS 4220:2010, EN 747-1:2012, ASTM F1427-21 or US 16 CFR Part 1513.**

Benefits

Referencing the whole of either the Australian standard, the EN standard, the ASTM standard or the US CFR would offer choice for suppliers in complying with the mandatory standard. Rather than selectively isolating specific sections from the voluntary standard and matching requirements between the mandatory standard (via the CPN) and the voluntary standard, suppliers could reference the entire voluntary standards.

Referencing the entirety of these standard would establish a greater safety benchmark for bunk beds and elevated beds supplied to the Australian market, when compared to the current selective nature of the **Mandatory Standard**.

Suppliers and consumers would benefit from being able to supply and buy a greater range of bunk beds and elevated (high beds) that comply with trusted overseas standards.

Limitations

The cost of testing may increase given the improvements and additional requirements in the revised standard. However, as there may be greater competition among test houses competing in the market for product testing services, the new requirements may push down testing prices.

Because of the acceptance of multiple voluntary standards, the enforcement of the revised **Mandatory Standard** could potentially be more difficult for regulators than the current mandatory safety standard.

Option 3 – Revoke the Mandatory Standard

The **Mandatory Standard** would be revoked and suppliers would be required to comply with the general provisions of the Australia Consumer Law (**ACL**). Most consumer goods in Australia are not regulated by mandatory safety standards. Revoking the **Mandatory Standard** would mean suppliers would still need to have regard to the consumer protection provisions of the ACL.

The ACL provides consumers with specific protections for consumer transactions called statutory consumer guarantees every time they purchase goods or services. One of those guarantees is that goods will be of acceptable quality, meaning they are safe and fit for purpose. Although not enforceable by a regulator, consumer guarantees provide consumers with a mechanism to seek redress according to their individual circumstances

Benefits

As part of general product stewardship, suppliers selling bunk beds would be able to choose how much testing they undertake and to what voluntary industry standards they would source stock to meet. This may be less than the compliance costs associated with diligently meeting the requirements of a mandatory standard. This may result in lower priced bunk beds and a wider range of products becoming available to Australian consumers. If their products meet specific the voluntary requirements of an industry standard suppliers could

seek to gain a market advantage by marketing their product conformance to the voluntary requirements of an industry standard.

Limitations

The consumer protections provisions in the ACL may not provide sufficient incentives to businesses to ensure their goods offer an acceptable level of safety. Without a mandatory safety standard, suppliers will be able to determine the safety levels they consider appropriate for their products.

Regulation that applies at the point and time of supply is proactive as suppliers need to invest in good product stewardship early when sourcing products. Deterring the supply of a potentially unsafe goods and preventing their use by vulnerable consumers is more effective than a reactive response such as a voluntary or compulsory recall to remove the goods after sale to reduce the risk of injury.

There is a risk that, without regulation, safety may decrease over time as the lack of established minimum safety levels for bunk beds in the marketplace would benefit less safety conscious suppliers selling unsafe bunk beds. This in turn may diminish consumer confidence over time.

Questions

The ACCC seeks your views on the proposal discussed above and responses to the questions below:

1. Which policy option (option 1a, 1b, 2a, 2b or 3) do you support, and why?
2. Should the ACCC consider another option? If so, which option and why?
3. Do you consider that the adoption of the listed overseas standards for bunk beds in Options 1 and 2 is beneficial?
4. Do you believe overseas standards offer a comparable level of safety to the Australian standard?
5. Do you support the option to reference the entire (complete) voluntary Australian standard or each of the overseas standards in Options 1b and 2b?
6. Do you believe allowing the supply of bunks that comply with overseas standards in Options 1 and 2 could cause confusion for retailers and consumers?
7. Would Options 1b and 2b introduce administrative issues for suppliers? What are these issues?
8. What other issues in terms of compliance for the industry or your business could either of the options introduce?
9. Are there cost issues associated with any of the options?

Background

The ACCC administers product safety laws designed to ensure certain consumer products are safe.

Certain products sold in Australia are subject to mandatory safety standards which are introduced when necessary to prevent or reduce the risk of injury to a person. The ACCC has an ongoing program of reviewing mandatory safety standards to ensure their effectiveness and currency.

Current regulatory context

Mandatory safety standards may reference voluntary standards (in part or in whole), that have been developed by recognised standards making bodies in Australia (i.e., Standards Australia) or overseas. These standards making bodies regularly update their standards. The ACCC is therefore reviewing the bunk bed standard so that it references the most up to date voluntary/mandatory standards.

Your feedback

The ACCC invites you to comment on this review. Please provide your submissions via email to productsafety.regulation@acc.gov.au by Friday 23 September 2022.

If you have any questions about this consultation before the due date, please email them to productsafety.regulation@acc.gov.au.

Thank you for your time and consideration.