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Director  
Consumer Policy Unit  
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Australian Government

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**Decision regulation impact statement:** *Supporting business through improvements to mandatory standards regulation under the Australian Consumer Law*

Ai Group supports the general thrust in the Decision RIS for improvements to mandatory standards specifically (as stated) “to ensure businesses are not penalised or restricted from manufacturing or supplying products that comply with the most up-to-date versions of voluntary Australian and overseas standards where the updates have not yet been incorporated into a mandatory standard.” Notwithstanding this support we do have a number of concerns.

## **1. Decision making does not include existing technical infrastructure**

The DRIS states that “... the ACCC would maintain administrative responsibility of all mandatory standards including responsibility to ensure time-to-time updates to referenced Australian and overseas standards are suitable for the Australian context”.

As raised in our 2022 submission Ai Group believes that where there is a Standards Australia committee that is active and has responsibility for any Australian Standard that is made mandatory under the ACL, then there should be a responsibility placed on the ACCC to consult with this committee when overseas standards are being considered for the Australian context. Further we believe that Treasury should ensure that the regulations restrict the Minister from mandating safety standards that have not been subject to independent review.

## **2. Safe harbour provision**

Ai Group supports safe harbour provisions as argued in the DRIS as “they are typically used where it can be demonstrated that efforts to comply with a law or regulation have been made and where it can be demonstrated that technical non-compliance with a law or regulation would lead to a better outcome consistent with the intent of the law or regulation”

Ai Group notes that the DRIS advises that there was no objection to safe harbour provisions. We believe that such provisions should be included in the revised regulation as there maybe time lags when adopting/mandating new standards. As stated in our 2022 submission members believe:

*“... the safe-harbour proposal would likely give business more scope to make judgement calls on compliance with up-to-date standards. Particularly where an international business has global compliance teams who are both familiar*

*with global standards improvements, and are in frequent contact with testing laboratories, and would be in a position to make these judgement calls.”*

Ai Group recommends that Treasury revisits their position on this issue.

### **3. Expanded record keeping**

Members have advised that the proposed changes to Section 104 and 134 of the Act add requirements for record keeping and the provision for information that are potentially unnecessary and unduly onerous. Ai Group believes these additional requirements should be rephrased and limited in scope so that they only apply to the supplier/manufacturers claims of compliance to alternative standards. An unintended outcome of the proposed wording is that to manage risk the supplier/major manufacturer may have to conduct more frequent testing than would be otherwise required.

### **4. Scope of Bill**

Members have also raised concerns that it should be made clear that the scope of the *Treasury Laws Amendment Bill 2024: Product Safety Regulation* is not inadvertently expanded to cover electrical products already regulated under State and Territory Laws (e.g. NSW Gas and Electricity (Consumer Safety) Act 2017, Victoria Electricity Safety Amendment (Electrical Equipment Safety Scheme) Act 2018).

If necessary, we welcome the opportunity to discuss this further.

Yours sincerely  
James Thomson  
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Ai Group