

January 12, 2026

WTO TBT Enquiry Point
Office of Global Trade Negotiations
Department of Foreign Affairs and Trade
Canberra, Australia

VIA U.S. TBT enquiry point

RE: Notification G/TBT/N/AUS/190 – Limited review of the mandatory safety standard for toys containing lead and other elements

Dear Sir/Madam:

The Toy Association is the North American-based trade association; our membership includes more than 900+ 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 within the global marketplace.

The Toy Association would like to thank the Australian Competition and Consumer Commission (ACCC) for the opportunity to submit comments on the proposed revisions to its mandatory standard for toys containing lead and other elements. We respectfully offer this input on behalf of our members, via the World Trade Organization's Technical Barriers to Trade (WTO TBT) network. As part of ACCC's consultation effort, we have also included responses to its stakeholder questionnaire in the *Appendix* to this letter.

Toy safety is the top priority for the toy industry and our Association, and we have been global leaders in advancing physical and chemical toy safety for decades, including through our work on the ASTM F963 Toy Safety Standard, among other efforts. ASTM F963, as incorporated in the U.S. Code of Federal Regulations (16 CFR 1250), pursuant to the Consumer Product Safety Improvement Act (CPSIA), is recognized as one of the world's premier toy safety standards. Its comprehensive requirements have been emulated globally for toys and for several non-toy categories, and its consensus process ensures consideration of stakeholder viewpoints, innovation in product design, and data-supported emerging hazards.

We support ACCC's consideration of enhancing Australia's toy safety standards by aligning with the best practices set by other leading international safety standards. Specifically, we support ACCC's proposed recognition of the current ISO 8124-3 standard along with accepting ASTM F963 and EN71-3 as equivalent standards where they align with ISO 8124-3. We also welcome ACCC's proposal to allow for dynamic referencing for these standards. Dynamic reference will enable Australia to keep pace with new versions of these standards as they are modernized and adopted to enhance toy safety in the years to come.

As ACCC works to establish a practical transition period for adopting its proposed updated standard, we believe it is important to consider the supply chain and development timelines for toys. In general, 12 months for implementing simple design and packaging changes would be representative of the realities for toy manufacturers; however, 18 months would be preferable in terms of practicability to ensure these updates are incorporated throughout the extended supply chain, minimizing packaging wastage and supply chain disruptions.

One aspect of ACCC's proposal has the potential for triggering misleading and unnecessary labelling, which we believe runs counter to its working objective. As understood from its questionnaire, ACCC has proposed the idea of mandating all toy product packaging to include information on the standard with which the product complies. In application, this would deviate from the current best practices applied by other leading toy safety standards with which ACCC is seeking to align and would effectively place Australia out of alignment with the international marketplace. Additionally, this would contradict ACCC's own stated intention that this is a limited review since this would introduce a significant change to the requirements, triggering new and substantial supply chain disruptions by requiring a new packaging change to be implemented for all products sold in Australia.

It is important to underscore that our industry very much believes in transparency and ensuring consumers and parents are informed about the products they are purchasing. This involves providing meaningful and useful information to help parents make informed choices on toys, such as general safety warnings on use, appropriate age, and other related safety information. Our belief is that any information that is used to communicate to consumers must be clear and serve a valid purpose. We are concerned that an ACCC mandatory label on product packaging to state the voluntary standard upon which the compliance is based would add ambiguity and be misleading to consumers and retailers. For the consumer, compliance to the acceptable standard(s) is required independent of whether or not a standard is referenced and would not add to the safety of the product, perceived or otherwise. Additionally, although the issue is not clearly outlined in ACCC's questionnaire, it is reasonable to infer that this proposed new label would include the version of the voluntary standard, which would trigger further confusion at both the consumer and retailer levels since it could be taken to incorrectly imply obsolescence once that standard is updated. For example, while the packaging of a product may state compliance with an older version of a standard, it is incorrect to infer that the product itself is not compliant with an updated or later version of that same standard. The amended sections for the new standard may not relate to the specific product or may not affect the compliance status for the product. We believe this unique labeling requirement will create consumer confusion about the information provided and may raise undue concern about a product's safety. We strongly recommend that ACCC maintain the current practice whereby reference to specific voluntary standards is not required to be stated.

Further, mandating a unique label exclusively for the Australian marketplace will trigger an economic burden on toy importers and manufacturers. In turn, we are concerned that this requirement would become a potential barrier to trade and thus may be inconsistent with WTO TBT principles. 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."¹

Again, we very much support ACCC's overall approach to enhance Australia's toy safety standards by aligning with other leading international safety standards; however, we strongly recommend it avoids pursuing a mandated toy product packaging requirement to include information on the standard to which the product complies. This would effectively place Australia out of alignment with the international marketplace and become a major alteration to ACCC's current safety standards.

¹ WTO TBT Agreement, 2.6-2.7

The Toy Association is grateful for the opportunity to provide comment and to share our concerns related to ACCC proposed changes. Should you have any questions regarding our concerns, please do not hesitate to contact me or my colleague Joan Lawrence. I can be reached at jhuxley@toyassociation.org, and Ms. Lawrence can be reached at jlawrence@toyassociation.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Jos Huxley". The signature is fluid and cursive, with the first name "Jos" and last name "Huxley" clearly distinguishable.

Jos Huxley
Senior Vice President of Technical Affairs
The Toy Association
jhuxley@toyassociation.org

About The Toy Association and the toy industry:

The Toy Association is the North American based trade association; our membership includes more than 900+ 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 has been recognized in the United States 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.

APPENDIX

ACCC Consultation Questionnaire: Limited review of the toys containing lead and other elements mandatory safety standard.

1 What is your name?

The Toy Association

2 What is your email address?

jhuxley@toyassociation.org

3 What is your organisation?

North America trade association

4 Do you consent to the ACCC publishing your submission?

Yes.

5 Do you agree that the mandatory standard for toys containing lead and other elements should be updated?

Yes. We strongly support ACCC's approach to enhance Australia's safety standards by aligning with the best practices set by other leading international toy safety standards.

6 Do you agree that the mandatory standard should be updated to reference AS/NZS ISO 8124.3:2021/Amd 1:2023?

Yes. We support ACCC's recognition of the current ISO 8124-3 standard along with its proposal to recognize the equivalence of ASTM F963 and EN71-3 where they align with ISO 8124-3.

7 Do you agree that the mandatory standard should reference AS/NZS ISO 8124.3:2021/Amd 1:2023 as it is updated from time-to-time (dynamic referencing)?

Yes. We welcome ACCC's proposal to allow for dynamic referencing for these standards. This will enable Australia to keep pace with new versions of these safety standards as they are modernized and adopted in the years to come.

8 Do you agree that the mandatory standard should apply to children under 6 years for all product categories?

Yes.

9 Do you agree that ISO 8124-3:2020/Amd 1:2023 provides an equivalent level of safety to the current mandatory standard and can be referenced in the mandatory standard as a compliance option?

Yes. We support ACCC's recognition of the current ISO 8124-3 standard along with its proposal to recognize the equivalence of ASTM F963 and EN71-3 where they align with ISO 8124-3.

10 Do you agree that the mandatory standard should reference ISO 8124-3:2020/Amd 1:2023 as it is updated from time-to-time (dynamic referencing)?

Yes. We support ACCC's recognition of the current ISO 8124-3 standard along with its proposal to recognize the equivalence of ASTM F963 and EN71-3 where they align with ISO 8124-3. We also agree that it should be adopted by dynamic referencing. This will enable Australia to keep pace with new versions of these safety standards as they are modernized and adopted in the years to come.

11 Do you support referencing specific sections of EN 71-3:2019 + A2:2024 as a compliance option in the mandatory standard, where they align with the safety protections in the 2021 voluntary Australian standard?

Yes. We support ACCC's recognition of specific sections of EN 71-3:2019 + A2:2024 as a compliance option in the mandatory standard along with its proposal to recognize the equivalence of ASTM F963 and EN71-3 where they align with ISO 8124-3.

12 Do you agree that the mandatory standard should reference EN 71-3:2019 + A2:2024 as it is updated from time-to-time (dynamic referencing)?

Yes. We support ACCC's recognition of the current ISO 8124-3 standard along with its proposal to recognize the equivalence of ASTM F963 and EN71-3 where they align with ISO 8124-3. We also welcome ACCC's proposal to allow for dynamic referencing for these standards. This will enable Australia to keep pace with new versions of these safety standards as they are modernized and adopted in the years to come.

13 Do you support referencing specific sections of ASTM F963-23 as a compliance option in the mandatory standard, where they align with the safety protections in the 2021 voluntary Australian standard?

Yes. We support ACCC referencing specific sections of ASTM F963-23 as a compliance option in the mandatory standard, along with its proposal to recognize the equivalence of ASTM F963 and EN71-3 where they align with ISO 8124-3.

14 Do you agree that the mandatory standard should reference ASTM F963-23 as it is updated from time-to-time (dynamic referencing)?

Yes. We support ACCC's proposal to reference ASTM F963-23 in the mandatory standard and EN71-3 where they align with ISO 8124-3. We also welcome ACCC's proposal to allow for dynamic referencing for these standards. This will enable Australia to keep pace with new versions of these safety standards as they are modernized and adopted in the years to come.

15 What is a suitable transition period for changes to take effect if the mandatory standard is updated following this limited review?

We would recommend that, due to the supply chain and development timelines for toys, 12 months be considered at minimum as that is more representative of the realities of implementing design and packaging changes; however, 18 months would be preferable in terms of practicability to ensure these updates are incorporated throughout the extended supply chain, minimizing packaging wastage and supply chain disruptions.

16 Where a new version of a referenced voluntary standard is published in the future, how long should the superseded version remain as a compliance option?

We recommend an 18-month transition period as a baseline, but also recommend that the transition period should not be a shorter time period than what is applied for the referenced voluntary standard itself if it goes beyond 18 months (e.g., if an update to EN71-3 is set at 2 years, we recommend that ACCC applies a similar timeframe).

17 Do you agree that product packaging or information provided with the product should state which referenced voluntary standard the product complies with?

We do not believe ACCC should establish a mandatory product packaging requirement that would reference the voluntary standard the product complies with. In application, this would deviate from the current best practices applied by other leading toy safety standards with which ACCC is seeking to align and would effectively place Australia out of alignment with the international marketplace. Additionally, this would contradict ACCC's own stated intention that this is a limited review since this would introduce a significant change to the requirements, triggering new and substantial supply chain disruptions by requiring a new packaging change to be implemented for all products sold in Australia.

It is important to affirm that our industry very much believes in transparency and ensuring consumers and parents are informed about the products they are purchasing. This involves providing meaningful and useful information to help parents make informed choices on toys, such as general safety warnings on use, appropriate age, and other related safety information. Our belief is that any information that is used to communicate to consumers must be clear and serve a valid purpose. We are concerned that an ACCC mandatory product packaging safety compliance label to state the voluntary standard upon which the compliance is based would add ambiguity and be misleading to consumers and retailers. For the consumer, compliance to the acceptable standard(s) is required independent of whether or not a standard is referenced and would not add to the safety of the product, perceived or otherwise. Additionally, although the issue is not clearly outlined in ACCC's questionnaire, it is reasonable to infer that this proposed new label would include the version of the voluntary standard, which would trigger further confusion at both the consumer and retailer levels since it could be taken to incorrectly imply obsolescence once that standard is updated. For example, while the packaging of a product may state compliance with an older version of a standard, it is incorrect to infer that the product itself is not compliant with an updated or later version of that same standard. The amended sections for the new standard may not relate to the specific product or may not affect the compliance status for the product. We believe this unique labeling requirement will create consumer confusion about the information provided and may raise undue concern about a product's safety. We strongly recommend that ACCC maintain the current practice whereby reference to specific voluntary standards is not required to be stated.

Further, mandating a unique label exclusively for the Australian marketplace will trigger an economic burden on toy importers and manufacturers. In turn, we are concerned that this requirement would become a potential barrier to trade and thus may be inconsistent with WTO TBT principles. 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.”²

18 If you answered 'yes' to question 17, how should suppliers state which referenced standard the product complies with?

- ***A label attached to the product***
- ***Information labelled on product packaging***
- ***Information provided with the product – can be included with other product information such as user instructions***
- ***Any of the above***
- ***Other – provide more information below***

Other. Although we did not answer “yes” to question 17, as detailed in our response there (and in the accompanying letter), we strongly believe that ACCC should not establish a mandatory product packaging requirement that would reference the voluntary standard the product complies with. Such an approach would go beyond the current best practices applied by the other leading toy safety standards which ACCC is seeking to align with.

² WTO TBT Agreement, 2.6-2.7