

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates

10 – 11 February 2010

Question: aet 74

Topic: Standard of Imported Goods

Hansard Page: Written

Senator EGGLESTON asked:

1. Is it possible under Australian law that goods can be imported into Australia which are not subjected to the same health and safety standards as goods manufactured in Australia. Is the ACCC aware of any such situations? Please provide details.

Answer:

The ACCC is responsible for the enforcement of the *Trade Practices Act 1974* (TPA), including those parts which mandate safety standards for consumer goods. Under Part V of the TPA, the safety of consumer products is regulated at the point of sale and the same safety standards apply regardless of whether the goods were manufactured in Australia or overseas.

Responsibility for health and safety standards is shared between a number of portfolios. The ACCC also notes that in addition to TPA requirements, imported goods need to comply with other Commonwealth and State/Territory laws, as well as relevant customs and quarantine legislation. Compliance and enforcement activities are undertaken by both fair trading agencies in the States and Territories of Australia and the ACCC, and by other regulatory agencies.

In limited instances, imported goods may not be subject to the same regulatory requirements as domestic products, in consequence of constitutional constraints upon legislative competency and application of mutual recognition principles. The ACCC is unaware of instances where such situations have compromised consumer safety.

Safety standards under the TPA rely on the constitutional reach of the Act for their application. It is possible that an unincorporated trader operating within the confines of a single State or Territory could supply a directly imported product that does not comply with TPA safety standards, while an incorporated supplier could supply only complying products. This possibility has been addressed in the past by the States mirroring TPA safety standards. The possibility will be removed in the future when the product safety provisions of the Australian Consumer Law take effect, ensuring nationally uniform safety standards for products will apply to all suppliers.

Mutual recognition principles embedded in the *Trans Tasman Mutual Recognition Act 1997* (TTMRA) may allow products that can be legally supplied in New Zealand to be legally supplied in Australia, and vice versa. In practical terms, co-operation between agencies and exemption provisions under legislation have helped ensure product safety standards are not compromised. The Minister for Innovation, Industry, Science and Research has policy responsibility for the operation of the TTMRA.