Addressing an ever-growing problem:

Regulation of consumer products in Australia - The unreasonable, cumulative burden on business and productivity

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About the authors

Barbara Kerlen MBA AAICD is a recognised leader in product safety and compliance, with extensive experience managing compliance across major retail categories including household goods, consumables, stationery, electronics, toys and children's products. She became a leading advocate for button battery safety, facilitating the national industry working group that led to Australia's first button battery safety standard and the establishment of Standards Australia Committee CS 118.

Barbara has also played a central role in Australia's retail product safety landscape. From 2015 to 2026, she chaired the National Retail Association's Product Safety Committee, coordinating member engagement with regulators including the ACCC and helping shape a unified industry voice on product safety policy. From 2022 to 2025, she represented discount variety retail on the ACCC's Product Safety Consultative Committee.

Barbara currently runs her own consumer product safety and compliance consultancy, working closely with industry associations and businesses across electrical equipment and general merchandise.

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From 2012, Gail has run her own consumer product safety consulting and advocacy business, working closely with industry associations including retail, toys and infant products, as well as individual businesses.

Gail's experience provides a unique perspective on regulation, bridging the gap between policymakers/regulators and regulated entities. Advocacy has included work on button batteries and toppling furniture, now both subject to mandatory standards.

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Introduction

Australia's consumer product regulatory environment has reached a scale and level of complexity that is increasingly expensive and unmanageable for retailers and suppliers, particularly in the consumer electronics and general merchandise sectors. It is fragmented, unaligned and often poorly done. Altogether, it creates a major burden on business and productivity.

This paper provides details, examples and proposals for improvement within the non-food consumer product system.

Consumer products—especially electronics, household goods, and everyday items—represent **virtually everything purchased and used by the general population**. It is inherently a large, technically complex, rapidly evolving, globally integrated sector and **regulatory interventions have an exponential impact**, applying to **every variation** of a product category's models, styles, designs, etc.

The sheer number of product regulations has, and continues, to increase dramatically. Once enacted, product regulations are rarely rescinded (even when there is a good case for discontinuation, eg. mandatory apparel care labelling). But **while the actual number is an issue, the main concern is the way regulations are made and administered**.

Overlaying the consumer product sector with **ever-increasing regulatory imposition**, **without coordination, alignment or effective stakeholder engagement, creates systemic risk** of:

- policy goals (eg. safety, sustainability, transparency) being undermined by poor regulatory design
- conflicting obligations
- delayed or withdrawn products
- enforcement action detached from consumer harm
- competition imbalance (unlevel playing field)
- inordinate and unreasonable regulatory burden, and
- negative impact on productivity

There is no single authoritative source of truth for obligations, interpretations, or compliance and enforcement expectations.

Further, regulations are frequently being written with provisions that are impractical, unfeasible and containing errors. These lead to direct costs for regulated businesses for no benefit to the community. There are also commensurate opportunity costs by diverting product compliance resources away from, for example, genuine safety management.

Attachment A contains a table detailing the range and complexity of current regulatory interventions across government portfolios and jurisdictions. The rate of regulating, and the lack of harmony between jurisdictions and portfolios, is likely to continue unabated, unless an effective strategy is implemented to mitigate the problem.

Costs

The Australian Retail Council (ARC) has recently quantified the economic consequences of regulatory fragmentation in some aspects of retail. Its 2026 analysis shows that inconsistent and overlapping state-based regulations—such as differing packaging rules, environmental compliance schemes, transport restrictions, and delivery curfews—drive **operational inefficiency at scale**.

ARC estimates that, over the next decade:

- Regulatory fragmentation will **reduce national GDP by $26 billion**
- Household costs will rise by **more than $9 billion**, directly contributing to cost-of-living pressures
- Annual regulatory compliance costs now exceed **$160 billion at the Commonwealth level**, rising to nearly **$240 billion** when state and territory compliance is included

These costs represent a major regulatory burden, which are then embedded in higher product prices, slower innovation, reduced product choice, and delayed market entry. Competition from overseas-based retail platforms, with their lower price points and poor compliance approach, exacerbates the burden on domestic retail businesses.

This paper adds to the ARC's work by articulating the consequences for the **consumer product market**. *Attachment B* outlines the **cost factors** that apply to compliance with product safety regulations.

Notably, compared with most if not all other sectors, regulations on consumer products require implementation across an extraordinarily wide and constantly evolving range of products.

For a comparatively small market by global standards, the degree of regulatory fragmentation is disproportionate and places Australian businesses at a competitive disadvantage compared with suppliers operating in more harmonised markets, such as the European Union.

The Australian Consumer Law (ACL) obliges all parts of the supply chain to meet compliance requirements. Retailers are at the front line and their product compliance managers pass on regulatory obligations to their suppliers and in turn to the whole supply chain, **influencing the entire system**. But managing **each product's** supply chain (and the supporting players, such as test companies and inspectors) is particularly onerous when regulations are unique and/or problematic.

No national alignment, no consistent administration

While Australia nominally operates under "national" frameworks such as the ACL, in practice **administration and enforcement remain fragmented**. Even under its Single Law Multiple Regulator system, in the ACL:

- Each jurisdiction applies its own enforcement priorities
- Compliance thresholds vary significantly
- Interpretations vary
- Remedial and corrective expectations differ
- Risk-based approaches are inconsistently applied

Some agencies adopt a zero-tolerance approach regardless of actual consumer harm, while others pursue proportionate, outcomes-focused compliance. This inconsistency creates legal uncertainty and undermines voluntary compliance efforts.

Retailers may be assessed as fully compliant in one state while simultaneously being the subject of enforcement action in another—often for identical conduct.

Expanding array of regulatory agencies (and unworkable regulations)

The Australian regulatory landscape includes a range of authorities that have responsibility for the safety of consumer goods. These include the ACCC and state counterparts, TGA, and electrical approvals authorities.

However, a growing and particularly concerning trend is **regulatory intervention** into consumer products by **authorities whose primary remit does not involve consumer goods**. These include:

Industrial chemicals (AICIS) – eg. PFAS in consumer goods
Forestry – eg. toilet paper
Environment – eg. single-use plastic consumer products
Police – eg. kitchen knives and garden machetes
Utilities – electrical, gas, water efficiency
Child protection/privacy - eg. interactive smart toys
Attorney General – eg. proposed modern slavery requirement

Few have engaged effectively with the relevant part of the regulated community, either prior to or after declaring new regulations. This often leaves businesses with unworkable regulations that are expensive to implement and often without policy justification. And many of these operate at a state level, so harmonisation is rare.

Unfortunately, even the agencies with consumer product remit have recently been less than balanced in the design and administration of their regulations.

Attachment C is a video presentation that runs through ten examples of recent problematic regulatory policy and administration outcomes.

In several cases:

- Regulators appeared unfamiliar with product design, manufacturing, or retail realities
- Consumer product businesses were **not meaningfully consulted, if at all**
- There was **no effective guidance** explaining how the regulation was intended to be applied
- Requests for clarification or rectification were met with indifference or silence

The resultant uninformed policies **increase confusion, not compliance**, and may ultimately undermine the policy objective itself. Achieving compliance is often unduly onerous, if achievable at all.

Two other wide scale issues are also on the horizon for potential regulation, creating a major compliance challenge:

1. Extended Producer Responsibility (EPR), which could introduce new regulations on consumer products; and
2. Microplastics (the subject of a recent Senate Enquiry) which cuts across a wide range of portfolios

With various jurisdictions' involvement, businesses increasingly report being **approached by multiple regulators for the same issue**, often triggered by the same complaint source (for example, advocacy groups or competitors). Response demands, engagement and timeframes are rarely uniform. In practice:

- The same issue can be escalated separately across all states and territories
- Each regulator engages independently with national retailers
- Each makes different information demands
- Each threatens enforcement under its own framework and enforcement approach

All this leaves a considerable percentage of the ~221,000 Australian consumer product retail businesses[1] with a **substantial administrative burden.** It also elevates legal risk, even where the underlying issue is minor or low-risk to consumers.

[1] Company Data

Lack of clarity (and errors) in regulation lead to reduced compliance—not better outcomes

Overly complex regulation **reduces real-world compliance as**:

- businesses struggle to implement overlapping obligations
- legal advice becomes jurisdiction-specific and costly
- compliance teams focus on paperwork rather than product safety outcomes
- inconsistent messaging erodes trust in regulators

When regulators themselves make **errors in mandatory standards** or publish ambiguous guidance (of which there are numerous examples with no recourse), businesses face substantial costs and exposure to enforcement action —despite acting in good faith. Regulators should be expected to demonstrate **best practice and exemplary conduct**, particularly where their actions materially affect national supply chains.

Current checks and balances

Regulatory policy

Federal authorities are obliged to go through the Office of Impact Assessment (OIA) to create new and revised regulation. This provides certain checks for regulatory justification and process, but recent examples indicate these are not sufficient to prevent problematic regulatory imposts. And the checks do not appear to address the cumulative/conflicting regulatory specifications on specific product categories.

Between federal government portfolios and agencies, co-ordination on consumer product policy is not well evident.

Does the OIA oversee co-ordination between portfolios on the same consumer product category? Are there any obligations placed on authorities to liaise and collaborate? While guidance exists for good regulatory practice, this does not appear to carry any force. The Productivity Commission's recommendation to extend the OIA's role could perhaps include regulatory co-ordination.

State authorities presumably have similar mechanisms to the OIA, but these do not appear to prevent frequent disharmony. In the federated ecosystem, while most portfolios have some measures in place aimed at co-ordination and harmonisation, many imposts are introduced on a state by state basis, with resultant fragmentation and conflicting requirements.

The current review of the EESS is one example of regulatory dysfunction – one that, after years of frustration, required the Department of Finance and ACCC to intervene to develop a harmonisation plan (that itself will take yet years to complete).

Regulatory administration

Policy vetting itself, even when effective, does not assist with how various agencies go about administering the regulations once they have carriage.

Challenges of any sort are generally not entertained once regulations are declared. Agencies are typically conservative in their approach, rather than being pragmatic and flexible when needed. This relates to both concerns about the policy itself and the compliance approach taken.

Very few avenues exist to seek better administration on a case by case basis, or more generally. Businesses are quite hesitant to 'rock the regulator's boat', for fear of retribution. Industry associations can put forward a case to review action on behalf of their sector, but if an agency declines to address an error or unreasonable specification, where can impacted parties go?

The reform imperative

In line with other reviews such as the Productivity Commission, the Business Council of Australia and the Australian Retail Council[2], we assert **Australia's consumer product regulatory framework is no longer fit for purpose**. What was once a system intended to safeguard consumers has evolved into a complex, fragmented web of overlapping obligations that too often undermines its own objectives.

The reform challenge is not purely one of law or policy design; it is equally about regulatory practice and performance. Effective consumer protection depends not just on good legislation, but on regulators who apply it consistently, proportionately and with an understanding of the markets they oversee.

For consumer products specifically, meaningful reform is now essential. Without reform, the burden of regulatory complexity, undue costs and market uncertainty will continue to grow. At a minimum, this requires:

A more effective framework

- Effective application and oversight of the *Regulatory Policy, Practice and Performance Framework (RPPPF)* and *Resource Management Guide 128* for product regulation
- A framework to manage genuine national alignment and harmonisation, rather than parallel state-based regimes operating under nominally national laws
- An avenue to report concerns with, and review, regulatory decision-making

[2] Op cit

Better regulatory policy

- Clear jurisdictional and agency boundaries, to prevent regulatory overreach and duplication (with published details, such as memorandums of understanding)
- Stronger international alignment with trusted overseas regulatory regimes, recognising Australia's position as a relatively small market in global supply chains
- Meaningful consultation (preferably collaboration) with regulated industries, to ensure regulations are practical, intelligible and capable of real-world compliance, including co-design with industry where practical
- Regulation commencement dates that accommodate commercial practicalities (eg. avoid 1 January)
- Ability to make timely corrections to declared regulations where necessary

A single reference point

- A single, authoritative platform (eg. business.gov) for regulatory information, including consultation alerts, so businesses can engage, understand and meet their obligations with confidence. This would aggregate various agencies' listings and provide links to each agency's website for full information
- The BCA's suggestion of a regulatory grid (section 1.4) for co-ordination and planning would definitely assist in the consumer product sector.

Sound, practical, implementation and compliance

- Effective and practical guidelines published at time of declaration, with ability to progressively adjust as needed
- Education for regulated businesses, using TGA Learn as a model
- Power to make interpretations for the ACCC, and others
- Risk-based, proportionate enforcement, focused on actual consumer harm rather than technical non-compliance

Further considerations

Support

Currently in Australia, use of Artificial Intelligence, overseas retail platforms (such as Temu) and undue regulatory burden all represent threats to product safety and compliance. The people charged with achieving safety and compliance will remain essential to ensure correct application and to drive improvements. Support is needed for the real guardians and drivers of product safety, rather than more complexity and neglect.

Applying the framework

The RPPPF, developed by the Australian Government Department of Finance, presents an important opportunity. Properly applied, the RPPPF can help modernise how regulation is designed, implemented and enforced—shifting the system away from fragmentation and

formality, and toward **harmonisation, clarity and outcomes-focused regulation (and its administration)**.

The task now is to ensure that the principles of the RPPPF are fully embedded across consumer product regulation, so that Australia's regulatory system protects consumers without imposing unnecessary cost, confusion or risk on the businesses that serve them. **Broad oversight and accountability mechanisms appear to be necessary for this to be achieved.**

An extended obligation

The federal government's Legal Services Directions provide a government-wide requirement to act as a model litigant. These are a binding set of rules to which all enforcement agencies must comply, with the principle that agencies act fairly and in accordance with high professional standards.

These Directions set out important rules to manage (in a **whole-of-government manner**) legal, financial and reputational risks to the Commonwealth's interests. They give entities the discretion to manage their particular risks, which those entities are in the best position to judge, while providing a supportive framework of good practice. The Office of Legal Services Coordination even provides training on the Directions for agencies.

A complementary set of directions in the form of **binding rules on setting, managing and administering regulatory policy** should be considered. This should be supported by mandatory regulatory capability programs.

Regulatory capability standards

The ANZ School of Government (ANZSOG) and its National Regulatory Community of Practice (NRCoP) have an increasing focus on regulatory capability. As outlined below, Jane Hudson, is clear that regulatory capability is its own category, alongside organisational capability. Jane states that investment by agencies is essential.

The impact of investment in regulatory capability is powerful:

- Focuses on **risk-based, outcomes-driven approaches** — targeting effort where it matters most;
- Provides **clarity and transparency** — helping regulated entities understand expectations and navigate rules;
- **Reduces regulatory burden** — making compliance easier and more efficient;
- **Engages effectively** with stakeholders — boosting compliance and trust;
- **Adapts and continuously improves**—keeping regulatory systems resilient and responsive.

Jane Hudson, M. Adult Education. Regulatory Learning & Capability Specialist, 2026

An existing model

Notably, New Zealand has established a Ministry of Regulation, whose role is to oversee regulatory capability, policy and implementation. It has recently published a map of the national regulatory landscape, which covers some 260 organisations with regulatory roles. Its website outlines its work, including for example, that they reviewed and stopped unworkable standards imposed in a key industry. Stakeholders can submit concerns:

> **What you can submit**
>
> You can use the Red Tape Tipline to tell us about:
>
> - Regulations that are excessive, redundant, or create high compliance costs.
> - Rules or processes that are confusing, outdated, or hard to navigate.
> - Any regulatory issue – big or small – that's getting in your way.

The Ministry also has a focus on regulatory stewardship – for the 'governance, monitoring and care of our regulatory system'.

New Zealand has the good fortune to have a single national government system. Australia's regulatory system would encompass far more than New Zealand's '260 organisations' (one estimate is 1,360), so the need for whole-of-government management appears to be even greater. It would be valuable to explore our Trans-Tasman neighbour's example.

Conclusion

Regulators writing policy without meaningful engagement with the regulated community, and with one another, is a recipe for impractical outcomes that negatively affects productivity and leaves businesses unable to confidently proceed to market. It also frequently fails to address the purpose of the intervention and adds undue costs to both the business and wider community. The concept of 'co-design' between key parties must be explored.

Many dedicated people who work in the consumer product market are the ones that drive safety and compliance and are uniquely positioned to do so. Continuing to divert their time and effort, and those of small business operators, through poorly managed regulation risks further eroding the national capacity to secure safe, sustainable consumer products.

Increasing threats from overseas discount retail platforms and artificial intelligence undermine the integrity of Australian product compliance and safety. Government must support rather than hinder those who supply our everyday goods.

The range and complexity of current Australian consumer product regulatory interventions across portfolios and jurisdictions

This table has been prepared to be illustrative and contains some subjective elements. It should not be relied on for compliance purposes. E&OE. Colour-coded cells indicate harmonisation levels: Green = well-harmonised; Yellow = somewhat harmonised; Red = not harmonised

Product element / regulatory regime	**Applies to**	**Jurisdiction (F/F+S/S)**	**Department / Agency (lead)**	**Harmonised legislative / regulatory policy**	**Harmonised application (enforcement & compliance)**	**Level of disharmony**	**Recall admin**	**Notes / conflicts**
Australian Consumer Law (ACL) –	Product	FS	Treasury (policy); ACCC + state & territory fair trading	Yes	Partial	M	**ACCC (lead)**	Single law, but enforcement priorities, timing and evidentiary burden vary by regulator
ACL mandatory standards & bans	Product	FS	ACCC + state agencies	Yes	No	M	**ACCC**	Interpretation differences common (e.g. clothing cords, button batteries, baby products)
Product Safety Information Standards (ACL)	Product	FS	ACCC	Yes	No	M	ACCC	Labelling and warning expectations vary in practice
Single-use plastics bans (including microplastics)	Environment /packaging	S (most states)	State environment depts / EPAs	No	No	H	N/A	Definitions, exemptions, timelines and enforcement differ materially

Product element / regulatory regime	Applies to	Jurisdiction (F/F+S/S)	Department / Agency (lead)	Harmonised legislative / regulatory policy	Harmonised application (enforcement & compliance)	Level of disharmony	Recall admin	Notes / conflicts
Illegal Logging Prohibition Act (ILPA) –	Product / inputs	F	DAFF	Yes	Partial	M	N/A	Due-diligence scheme not designed for finished household goods (e.g. tissues, stationery)
Industrial Chemicals (AICIS)	Product / formulation	F	AICIS (Dept of Health)	Yes	Yes	L	ACCC (via ACL)	Chemical categorisation vs finished-product safety often misunderstood
Environment – chemicals (IChEMS)	Environment	FS	DCCEEW + states	Partial	No	H	N/A	States adopt at different speeds and scopes
Electrical safety – EESS	Product	S (all states)	State electrical regulators	Partial	No	H	ACCC (if consumer product)	NSW not legislatively participating, applies parallel system
Radiocommunications / EMC / electronic devices	Product	F	ACMA	Yes	Yes	L	ACCC	RCM vs ACL labelling overlaps
Food & beverage regulation	Product	FS	FSANZ + state health	Yes	Partial	M	FSANZ / states	National code; enforcement by states
Therapeutic goods	Product	F	TGA	Yes	Yes	L	**TGA**	ACL still applies in parallel
Customs / import controls	Shipment	F	ABF	Yes	Yes	L	N/A	Border holds often triggered by other regimes
Vehicles – road safety & supply	Product	FS	DITRDCA + state transport	No	No	H	ACCC / states	ADRs vs road-use laws disconnect

Product element / regulatory regime	Applies to	Jurisdiction (F/F+S/S)	Department / Agency (lead)	Harmonised legislative / regulatory policy	Harmonised application (enforcement & compliance)	Level of disharmony	Recall admin	Notes / conflicts
Knives, machetes, controlled weapons	Product	S (most states)	State police	No	No	H	ACCC (if recalled)	Definitions and prohibitions differ by state
Batteries – disposal & stewardship	End-of-life	FS	State EPAs; emerging fed schemes	No	No	M	N/A	Stewardship schemes not uniform
Batteries – safety (incl. button batteries)	Product	FS	ACCC	Yes	No	M	ACCC	Rapid evolution; interacts with packaging & labelling laws
National Measurement Act	Product / trade	F	NMI	Yes	Yes	L	N/A	Often overlooked for consumer goods
Country of origin claims	Product / labelling	FS	ACCC + states + ABF + FSANZ	Yes	Partial	M	ACCC	Different claim rules for food vs non-food
Gas appliance safety	Product	S	State gas regulators	No (model laws only)	No	H	ACCC	Certification schemes vary significantly
Agvet chemicals & products	Product	F	APVMA	Yes	Yes	L	APVMA	ACL applies concurrently
GEMS (energy efficiency & labelling)	Product	F	DCCEEW	Yes	Yes	L	ACCC	Interacts with state energy rules
Water Efficiency Labelling (WELS)	Product	F	DCCEEW	Yes	Yes	L	ACCC	Mandatory for many fixtures
Recycling & environmental claims (APCO, green claims)	Packaging / claims	Voluntary + ACL	APCO / ACCC	**Voluntary**	No	M	ACCC	Greenwashing enforcement rising

Product element / regulatory regime	Applies to	Jurisdiction (F/F+S/S)	Department / Agency (lead)	Harmonised legislative / regulatory policy	Harmonised application (enforcement & compliance)	Level of disharmony	Recall admin	Notes / conflicts
Modern Slavery Act	Supply chain	F (+ NSW Act)	AGD	Partial	No	M	N/A	Reporting regimes not aligned
Packaging & waste regulations	Packaging	FS	State EPAs	No	No	H	N/A	Conflicting definitions and requirements
Dangerous goods transport	Transport	FS	Safe Work Australia + states	Model laws	Partial	M	N/A	Classification vs consumer labelling mismatch
Cyber security (consumer smart devices)	Product	F	Home Affairs / ACMA	Emerging	TBA	M	ACCC	Overlaps with ACL safety & misleading conduct
E-bikes, e-scooters (use)	Product use	S	State transport & police	No	No	H	N/A	Road use vs sale often misaligned
Vehicle accessories – use (helmets, child restraints)	Product use	S	State transport	No	No	H	N/A	
Vehicle accessories – sale	Product	FS	ACCC + states	Yes	No	M	ACCC	Sale legal, use illegal in some states
Biosecurity (animal products, timber, bone)	Product / import	F	DAFF (BICON)	Yes	Yes	L	N/A	Blocks imports regardless of ACL compliance
Poisons Standard (SUSMP)	Product	FS	TGA + states	Yes (schedule)	No	M	TGA / states	Scheduling consistent, controls not

Product element / regulatory regime	Applies to	Jurisdiction (F/F+S/S)	Department / Agency (lead)	Harmonised legislative / regulatory policy	Harmonised application (enforcement & compliance)	Level of disharmony	Recall admin	Notes / conflicts
Product end-of-life (e.g. TVs, computers – NTCRS)	End-of-life	F	DCCEEW + operators	Yes	Yes	L	N/A	Producer responsibility
Vehicle Design Rules (ADRs)	Product	F	DITRDCA	Yes	Yes	L	ACCC	Only cover first supply
Cosmetics & toiletries	Product	FS	ACCC, AICIS, TGA, EPAs	No (multi-regime)	No	H	ACCC	Simultaneous ACL, chemical, env and sometimes TGA obligations
Lead in plumbing products	Product	F	ABCB	Yes	Yes	L	ACCC	Intersects WELS and state plumbing codes
Graffiti implements	Product (sale, supply, display)	S (most states)	State justice depts, police, fair trading	No	No	H	ACCC (if recalled)	Definitions, age limits, display & record-keeping differ widely by state; often enforced by police rather than consumer agencies
Smoking implements	Product	FS	State health depts; police; ACCC	No	No	H	ACCC / states	Controlled as tobacco-related, drug paraphernalia or novelty items depending on state; overlaps with vaping reforms
Disposable cigarette lighters	Product	FS	ACCC + state fair trading	Yes (via ACL standard)	Partial	M	**ACCC**	ACL safety standard (e.g. child-resistance) + state sales/use contexts; incidents often trigger recall scrutiny

Product element / regulatory regime	Applies to	Jurisdiction (F/F+S/S)	Department / Agency (lead)	Harmonised legislative / regulatory policy	Harmonised application (enforcement & compliance)	Level of disharmony	Recall admin	Notes / conflicts
Alcoholic beverages – supply & sale	Product	FS	State liquor regulators; ACCC (labelling/claims)	No	No	H	ACCC (product safety); states (licensing)	Labelling claims federally regulated, but sale, packaging formats and volumes tightly state-controlled
Food containing alcohol (e.g. desserts, confectionery, kombucha)	Product	FS	FSANZ; state health depts; liquor regulators	Yes (Code)	Partial	M	FSANZ / ACCC	Classification disputes (food vs alcohol); differing state triggers for liquor control or age restrictions
Novelty alcohol products	Product	FS	State liquor regulators; ACCC	No	No	H	ACCC / states	Often prohibited or tightly restricted in some states despite FSANZ compliance
Smoking accessories marketed to minors (design/appearance)	Product	FS	State health, ACCC	No	No	H	ACCC	Marketing, appearance and proximity to schools regulated inconsistently
Vaping devices – non-therapeutic hardware	Product	FS	Commonwealth Health; state health	No (transitioning)	No	H	ACCC / Health	Rapid regulatory change; overlaps smoking implements, poisons, customs and ACL
Alcohol containers & packaging restrictions (size, material, multipacks)	Product / packaging	S	State liquor regulators	No	No	H	N/A	Environmental rules, liquor laws and ACL packaging reforms collide

Compliance costs in consumer product safety

For product regulations, a cost to the market should be researched and calculated in the interests of good regulatory practice. Government policy and guidelines require cost assessments and a stipulation that regulations not impose undue costs.

In most cases, businesses and associations find it difficult to make meaningful assessments and none are provided.

Understanding the cost to business – general/universal elements

Costs built into a finished product, ie. purchase price that covers safe and compliant design, production and testing

Initial/transition costs

- Checking whether the goods are in scope of the regulation (sometimes open to interpretation)
- Purchasing the published standard
- Possible decommissioning some lines (loss of revenue, market)
- Interpreting how the regulation applies to the product and its variants
- Determining how to achieve compliance on each product/model/variant
- Conducting product redesign and re-specification, which may be iterative
- Writing specifications and negotiating compliance with specs
- Commissioning testing*, which may be iterative
- Managing orders and stockholding in the lead period
- Managing and writing off any non-compliant left-over stock

Ongoing costs

Ongoing compliance costs are directly impacted by the nature of the products and their market. While a few product categories (such as vehicle ramps and stands) remain fairly constant in design and performance, others like toys, children's nightwear and infant products are subject to very high rates of variation and turnover. Variables include:

Product variability in:

- Models – eg. low for bunk beds, high for sunglasses and toys
- Fashion – eg. low for baby walkers, high for cosmetics
- Accessories/trims – eg. high for children's nightwear
- Seasonal styles/composition, eg. children's nightwear
- Colourways – eg. high for cosmetics, apparel
- Age groups – eg. high for toys
- License products – eg. frequent for toys timed to coincide with movie popularity
- Fads – eg. squishies

Production variability in:

- Raw materials
- Manufacturing
- Quality assurance
- Testing
- Inspections
- Landed goods checks
- Instore checks

Market variability in:

- Seasonal demand
- Between brands, models, within ranges
- Fashion and fads
- Consumer behaviour and tastes
- Social/media scares and trends

The true cost of **ongoing** compliance for most products on every SKU (stock unit) includes:

- Checking whether the goods are in scope of the regulation (sometimes open to interpretation)
- Interpreting how the regulation applies to the product and its variants
- Determining how to achieve compliance on each product/model/variant
- Commissioning testing*
- Assessing test reports
- Writing specifications and negotiating compliance with specs
- Negotiating the attachment of the correct label (in the correct position on the product) by the manufacturer
- Ensuring quality assurance in production
- Conducting pre-shipping inspections
- Conducting warehouse inspections for landed goods

Goods subject to regulations can also **incur costs in**:

- Dealing with any non-compliance detected
- Withdrawing and retrieving non-compliant stock if discovered post-distribution
- Disposal of non-compliant stock (possibly to landfill)
- Interaction with regulatory agencies on compliance and interpretations
- Retrieval/recall and/or disposal of non-compliant products
- Legal/expert advice on interpretation and on breach allegations

*Notes:

- Testing for the presence or concentration of chemicals and metal elements is generally significantly more expensive than physical testing;
- Minor variations in specified standards or test methods can lead to test companies over-servicing on individual products.

Applying just ACL product safety regulations to a product range – two product category examples

Consumer product regulations can entail an array of minute technical specifications to be applied to each and every product variation. Many specifications are open to interpretation and while some compliance can be assessed by a trained eye, many require laboratory testing, which itself can involve a varied approach, especially if specs are loosely written.

Some products remain the same from one year to the next, but a major retailer selling **children's nightwear** has to achieve:

- mandatory flammability safety standard compliance, and
- mandatory care labelling standard compliance

And do this with:

- xx number of SKUs (Stock keeping units) per season (there are different SKUs per colourway and size)
- 4 seasons per year
- new styles, new fashions each year

Over 5 years = xx SKUs x compliance with two standards = xx SKUs

Through xx number of individual supplier businesses.

The same retailer may stock **children's toys** which require the application of **one or all** of some 15 mandatory standards and bans, such as chemicals and heavy metals, flammability, projectiles, electrical/electronics, lithium (including button batteries), choking, ingestion/inhalation, poisoning, etc, etc

And do this with:

- xx number of SKUs per season (there are different SKUs per colourway)
- seasonal and holiday changes, eg Halloween, Christmas
- new products each year

Over 5 years = xx SKUs x compliance with two standards = xx SKUs

Through xx number of individual supplier businesses, that may use different factories or raw materials suppliers.

Any other agencies' regulations would be in addition to those in the Australian Consumer Law.

Flawed regulation of consumer products: Recent poor examples by Australian regulators

It was easier to provide the examples in an audio-visual format. Please watch the video presentation available on YouTube https://youtu.be/Q_hVpxGpOLU