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Moss, William

From: Ian Findlay <ian.findlay@fpaa.com.au>
Sent: Monday, 20 January 2020 2:40 PM
To: Prendergast, Matthew
Cc: Moss, William; Matthew Wright; Ray Mergard; Jessica Temple; Brendan Scully
Subject: Submission on updated proposed approach to extinguisher standards
Attachments: FPA Australia 2nd Submission (ACCC mandatory standards PFE).pdf

Hi Matt,

We've now finalised our submission in response to the updated proposed approach to the ACCC review of the mandatory safety standards for portable fire extinguishers (provided in your email on 4 December 2019).

Please find this submission attached.

If you have any questions or would like to organise another meeting, please don't hesitate to contact me via this email or on 0417 310 596.

Kind regards,

Ian Findlay – Technical Officer – Projects and Standards

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20 January 2020

Matt Prendergast
Director
Standards and Policy
Consumer Product Safety Branch
Australian Competition and Consumer Commission
Level 17 Casselden
2 Lonsdale St
MELBOURNE VIC 3000

Dear Matt,

RE: Additional feedback on ACCC review of mandatory safety standards for portable fire extinguishers

Thank you (and William Moss) for meeting with us on 14 November 2019 to discuss our original submission and for the opportunity to respond to your further communications on the possible approach to the update of these mandatory safety standards for portable fire extinguishers.

As highlighted in your email on 4 December 2019, while FPA Australia was generally supportive of the proposed approach to the update of these standards, we were concerned that limiting the standard to new extinguishers would open the market to a flood of imported second hand extinguishers from overseas to international standards rather than the Australian Standards. This was a significant concern because international standards have different identification and labelling requirements and different fire classification and rating requirements, which could potentially result in misidentification and misuse of an extinguisher, causing injury or death.

For example, in Australia, a wet chemical fire extinguisher which could be used on a kitchen fire (e.g. a deep fryer) is coloured red with an oatmeal (cream/beige) band. However, under BS EN 3 (the UK standard) the similar looking red coloured extinguisher with a cream panel is a foam extinguisher which is not suitable for such fires and could result in splashing of the oil and spreading of the fire.

Also, as discussed in our meeting, you clarified the ACCC's view that the supply of a second hand extinguisher as part of facilitating routine service (e.g. when the existing extinguisher needs to be removed from site for servicing) would be considered supply. This supply would mean the replacement extinguisher would need to meet the mandatory standard. Both FPA Australia and the ACCC agreed this imposed additional unnecessary regulatory costs on industry participants without net public benefit, provided the replacement extinguisher was originally to the mandatory standard and had been routinely serviced to AS 1851-2012. However, as discussed, AS 1851-2012 is not mandatory in all states and jurisdictions nor is it mandatory in all applications within such jurisdictions. Furthermore, you advised that the legislative structure for mandatory standards does not provide a head of power for mandatory standards to require maintenance. FPA Australia accepts this

In response to our meeting, your communication on 4 December 2019 (and subsequent clarifications), identified a possible new approach whereby the updated ACCC mandatory safety standard:

- **Shall** cover all new portable fire extinguishers (i.e. whether imported or manufactured in Australia).
- **Shall** also cover all imported second hand portable fire extinguishers and require them to meet the same requirements as new portable fire extinguishers.
- **Shall not** cover the supply of second hand portable fire extinguishers within Australia (i.e. not imported second hand but re-supplied second hand within Australia).

Note: We would recommend that the mandatory safety standard specifically state that it does not cover the supply of second hand portable fire extinguishers within Australia (i.e. not imported second hand but re-supplied second hand within Australia) so this is clearly identified to industry and consumers.

In conjunction, we would encourage the ACCC to include (in the explanatory information for the standards on its website) that the above requirements mean that the only extinguishers in the Australian market would have had to have originally met the mandatory safety standard (they could not have been to an international standard).

FPA Australia is supportive of this approach because:

1. Portable fire extinguisher will have had to meet the requirements of the mandatory safety standard at the time of first supply (i.e. must have been to Australian Standards and not international standards); and
2. It is believed that the safety of these products is maintained by their routine service in accordance with AS 1851-2012.

We would also like to reiterate our existing support for the revision of the non-aerosol portable fire extinguisher mandatory standard to adopt AS/NZS 1841:2007 and address other concerns as per our original proposal made on 18 October 2019 and its attached proposal from 4 May 2012 which provides in depth changes to the mandatory standards.

Finally, we also raised in Point 7 our proposal from October 2019, concern about the increasing number of products that perform the same function as portable fire extinguishers but do not meet the definition of portable fire extinguisher as per AS/NZS 1841 and (in some instances) are not capable of meeting AS/NZS 1841 because they operate by a different mechanism.

This item has not yet been addressed. We argue it needs to be addressed to ensure that all products intended for handheld use by members of the public for the purpose of extinguishing fires in their initial stages have set requirements to ensure their safe use and effectiveness. This is a situation that has been ongoing and FPA Australia receives many queries from companies selling such products, end users considering them and other fire protection companies that must compete against such unregulated products. Accordingly, we would appreciate the opportunity to develop some ACCC formal advice or educational material that can be distributed to industry and the public to highlight these requirements.

Thank you again for the opportunity to provide feedback on the proposed approach to the revision of the mandatory standards for portable fire extinguishers.

As offered in your email to Ian Findlay on 17 January, we would be happy to meet with you as necessary to discuss this further and, as per the cover letter to our previous submission, we would be happy to assist the ACCC in the actual revision of these mandatory standards (i.e. providing comment on draft versions regarding required changes, additions or omissions, etc.).

Please do not hesitate to contact Ian Findlay by email at ian.findlay@fpaa.com.au or by phone on 0417 310 596 to organise a meeting.

Yours sincerely,



Matthew Wright
General Manager - Technical Services / Deputy CEO
Fire Protection Association Australia