

Competition Reform Guidelines

FOR NATIONAL COMPETITION POLICY FEDERATION FUNDING AGREEMENT – AFFORDABLE HOUSING, COMMUNITY SERVICES AND OTHER – SCHEDULE

Lower barriers to the adoption of overseas standards in regulation

Objective
<p>These Guidelines will support Parties to the National Competition Policy Federation Funding Agreement Schedule 2024 to deliver the performance requirements as described in clause [X] of the Schedule. Implementing these Guidelines will:</p> <ul style="list-style-type: none">• Support a level playing field for businesses and better outcomes for consumers by:<ul style="list-style-type: none">– Removing unnecessary barriers to business entry, expansion and exit.– Minimising unnecessary compliance costs and complexity – including for businesses and people working across borders and systems.
Context
<p><i>Developed by:</i> Treasury Senior Officials from all Parties under a work program to revitalise National Competition Policy.</p> <p><i>Agreed by:</i> The [Commonwealth Treasurer/delegate], following endorsement by the body/ies that developed the guidelines and the National Competition Policy Stewardship Committee.</p> <p><i>Date agreed:</i> [Date]</p>
Evidence base
<p>Australia operates in an interconnected global trading system. Australia is committed to avoid introducing unnecessary barriers to trade. In line with this commitment, the Australian Government’s policy is to adopt international standards, where they exist and are appropriate. At the same time, standards must support Australia’s broader national interest – including public safety, consumer protection, innovation, environmental outcomes, and economic resilience. Importantly, this is also consistent with our international trade obligations, including as a signatory to the World Trade Organization (WTO) Agreement on Technical Barriers to Trade (TBT), which relates to technical regulations, standards, and conformity assessment procedures for goods.</p> <p>Standards – whether international, Australian, or developed by overseas organisations – are essential tools that support regulatory objectives. When applied effectively, standards can also facilitate trade and reduce business costs by improving consistency and predictability in regulatory frameworks. International standards developed through consensus-based processes – such as those administered by the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC) – can support regulatory alignment and global market access. Australian standards reflect domestic priorities and regulatory frameworks and may be</p>

appropriate where international standards are not fit for purpose or do not adequately address local conditions. Other overseas standards, including those developed by national or regional bodies, may also be relevant and support increased access to products and services.

Importantly, standards are voluntary unless made mandatory through regulation. Standards can become a barrier to competition if inappropriately mandated in regulation. To ensure standards support good regulatory outcomes, all standards, regardless of origin, should be subject to transparent and robust assessment to evaluate whether a standard is fit for purpose, proportionate to risk, and aligned with broader public policy outcomes. Applying this process consistently helps ensure that standards do not inadvertently impose unnecessary compliance costs, create regulatory fragmentation, or constrain competition and innovation.

The development of these Guidelines was informed by:

- Advancing Prosperity, 5-year Productivity Inquiry, Productivity Commission, 2023
- Agreement on Technical Barriers to Trade, World Trade Organisation (WTO), 1994
- Best practice guide to using standards and risk assessments in policy and regulation, Department of Industry, Innovation and Science, 2016
- Competition Policy Review Final Report, Harper et al., 2015
- ISO publication on good standardization practices, ISO, 2019
- Principles and Guidelines for National Standard Setting and Regulatory Action by Ministerial Councils and Standard-Setting Bodies, Council of Australian Governments, 2004
- Regional or national adoption of International Standards and other International Deliverables Part 1: Adoption of International Standards, ISO/IEC, 2005
- Regulatory Burden Measurement Framework, Office of Impact Analysis, 2024
- Relevant legislation of the Commonwealth, states and territories
- Standardisation Guide 007: Adoption Of International Standards, Standards Australia, 2023
- Supporting business through improvements to mandatory standards regulation under the Australian Consumer Law: Decision Regulation Impact Statement, The Treasury, 2024.

Output	To improve competition, state and territory Parties could:	Case studies
<p><i>Project 1: Establish and apply the Guidelines for recognising and adopting voluntary standards (including international and overseas voluntary standards) in legislation</i></p>	<ol style="list-style-type: none"> 1. As directed by the relevant minister/s and/or governments, review and update mandatory standards in a specified sector, and/or as administered by a specific regulator or group of regulators. In doing so: <ol style="list-style-type: none"> a. Review and define the regulatory objective. b. Determine if an alternative policy tool to the mandatory standard can achieve the same regulatory objective at a lower net cost. This should include an assessment of both the direct and indirect costs/benefits of varying approaches. Comparison of the cost of regulatory options should consider relevant factors including: <ol style="list-style-type: none"> (i) incentives; (ii) interactions with other broader regulatory environment relevant to that product/service; (iii) potential competition impacts, impacts in related market and unintended consequences; and (iv) flow-on impacts, including price and impacts on international competitiveness. c. If an alternative approach is likely to result in lower net costs, undertake steps to replace the mandatory standard with the preferred option. d. Where new or updated mandatory standards are deemed necessary to achieve the regulatory objective, identify, assess and recognise all appropriate international, regional, Australian, and overseas standards that could be fully adopted to meet the regulatory objective. e. Where new or updated mandatory standards deviate from existing international, regional, Australian, and overseas standards, ensure the least number of required modifications are made to achieve the regulatory objective. Deviations should only occur when: <ol style="list-style-type: none"> (i) existing standards are not suitable for the local context or do not align with the regulatory objective; and (ii) the deviation creates a larger net public benefit than fully adopting existing standards. f. Accept relevant and appropriate risk assessments, approvals, and conformity 	<p>State and territory parties are encouraged to refer to the Commonwealth’s Best Practice Handbook for further information on the best practice legislative approach to mandatory standards. The Handbook is intended to support the Commonwealth to implement the Competition Reform Guidelines.</p> <p>The approach to standards adoption captured by these guidelines is based on a wide range of literature, policy recommendation from national and international institutions, and implementation examples throughout Australia.</p> <p>Reforms to the Australian Consumer Law, agreed by the Australian Parliament in November 2024, allow a larger range of voluntary standards developed by international and overseas organisations to be recognised in Australian mandatory product safety and information standards. The reforms also expand the Minister's ability to make safety</p>

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	<p>assessment results from comparable regulators and/or conformity assessment bodies in other jurisdictions that utilise the standards proposed to be adopted.</p> <ul style="list-style-type: none"> (i) The regulator or conformity assessment body should be considered as competent to assess to Australian requirements. <p>g. Ensure consistency and interoperability with existing mandatory standards under the laws of the Commonwealth or another Australian state or territory, except where this creates excessive and unnecessary compliance barriers.</p> <ul style="list-style-type: none"> (i) If a party departs from an interoperable and consistent approach, adequate justification should be published, including providing evidence that the alternative approach will deliver higher or equal net public benefits. <p>h. Consult and implement any necessary legislative changes, ensuring:</p> <ul style="list-style-type: none"> (i) all known international, regional, overseas, and Australian standards that meet the regulatory objective are adopted; (ii) use of the correct nomenclature for any standards referenced; (iii) use of performance-based criteria where possible and prescriptive criteria only when necessary to achieve the regulatory objective; (iv) use of ambulatory (undated) references; (v) there is a transition period to comply with the new or updated mandatory standards; (vi) there are provisions for sunseting and/or reviewing the impact of the mandatory standard; and (vii) use of the most appropriate and flexible legislative instrument, such as subordinate legislation or delegated authority. (viii) assessment of the impact of proposed changes on affected stakeholders, with the findings of this assessment publicly released <p>i. Notify relevant bodies – including the Commonwealth Department of Foreign Affairs and Trade and other regulators at the Commonwealth, state and territory levels – of new mandatory standards to support regulatory harmonisation and ensure compliance with international obligations.</p>	<p>and information standards, ensuring that the standards remain current and effective in protecting consumers. The reforms are expected to save businesses significant costs, improve the overall safety and quality of products available in the Australian market, and provide Australian consumers of a wider range of goods at potentially lower prices.</p> <p>Victoria builds flexibility into its mandatory standards for certain safety-related items used on the road, including bicycle helmets. Under Victoria’s Road Safety Road Rules 2017, a designated officer can declare new standards for an approved bicycle helmet by public notice. For example, a bicycle helmet complying with a new standard providing a higher level of safety. This allows mandatory standards to be updated as circumstances change without excessive delays. For example, permitting products adhering to a newer, safer standard. The appropriate level of delegated authority from primary legislation will depend on the context and a</p>

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	<p>2. Develop future mandatory standards in legislation. In doing so:</p> <ul style="list-style-type: none"> a. Define the regulatory objective. b. Determine which policy tool would most effectively achieve the regulatory objective and justify this approach with respect to the net public benefit. This should include an assessment of both the direct and indirect costs/benefits of varying approaches. Comparison of the cost of regulatory options should consider relevant factors including: <ul style="list-style-type: none"> (i) incentives; (ii) interactions with other broader regulatory environment relevant to that product/service; (iii) potential competition impacts, impacts in related market and unintended consequences; and (iv) flow-on impacts, including price and impacts on international competitiveness. c. If mandatory standards are deemed necessary to achieve the regulatory objective, follow the scoping, impact assessment, legislative development and implementation steps outlined in 1.d – 1.i of these guidelines. 	<p>government's legislative processes.</p>