



## COVERSHEET

<b>Minister</b>	Hon David Clark	<b>Portfolio</b>	Commerce and Consumer Affairs
<b>Title of briefing</b>	Improving product safety: Updating safety standards for multipurpose ladders and consultation on options to address safety risks of corded window coverings	<b>Date to be published</b>	24 January 2023

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
December 2022	Improving product safety: Updating safety standards for multipurpose ladders and consultation on options to address safety risks of corded window coverings	Office of the Minister of Commerce and Consumer Affairs
December 2022	Annex One: Consultation document – Options to address safety risks of corded window coverings	MBIE
8 December 2022	GOV-22-MIN-0051 Minute	Cabinet Office

### Information redacted

**NO**

Any information redacted in this document is redacted in accordance with MBIE's and MFAT's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Annex One has been withheld as the final version of this discussion document has been publicly released.

## **In Confidence**

Office of the Minister of Commerce and Consumer Affairs

Cabinet Economic Development Committee

## **Improving product safety: Updating safety standards for multipurpose ladders and consultation on options to address safety risks of corded window coverings**

### **Proposal**

- 1 This paper seeks agreement to:
  - 1.1 release a consultation document on options to address safety concerns posed by corded window coverings; and
  - 1.2 require multipurpose ladders to comply with the newest Standard (AS 1892.1:2018) to improve safety.

### **Relation to Government priorities**

- 2 This paper aligns with the guiding principles and outcomes of the Child and Youth Wellbeing Strategy.

### **Executive Summary**

- 3 This paper seeks to improve the safety of corded window coverings and multipurpose ladders.

### **Corded window coverings**

- 4 Uncovered cords for window coverings (e.g. roller blinds, concertina blinds, Roman blinds and slatted blinds like Venetian blinds) pose a risk of strangulation to young children. In New Zealand, there have been three deaths of children in the past 10 years due to cords in window coverings.
- 5 In 2021, Coroner Borrowdale recommended that New Zealand declare prescriptive mandatory regulations or standards designed to protect young New Zealanders from the hazards of corded blinds in domestic settings.
- 6 I take these safety issues seriously and think we must protect young children from these hazards as a high priority.
- 7 I propose to release the attached consultation document, which seeks public feedback on a range of options to address these safety concerns. The options include information and education, remediation of installed blinds with Government assistance, voluntary modification by businesses, and product safety regulations.

- 8 Preliminary analysis and evidence indicate the non-regulatory options are unlikely to prevent all future deaths of young children from corded window coverings. On this basis, subject to further work and consultation, my preferred option is to regulate corded window coverings. Accordingly, the consultation document states that the Government's preferred approach is to regulate corded window coverings.
- 9 Feedback from the consultation will enable officials to then undertake a full cost-benefit analysis to inform policy decisions.

#### **Multipurpose ladders**

- 10 A multipurpose ladder is a portable ladder with joints that allow it to be folded and rearranged to function as a single- or double-sided ladder, or other configurations.
- 11 Ladders that do not meet official standards were banned in 2012, due to injuries attributable to structural and stability failures. The latest version of the instrument banning unsafe multipurpose ladders is the Unsafe Goods Notice (Multipurpose Ladders) 2021. This notice is due to expire on 5 April 2023.
- 12 I propose to replace the expiring unsafe goods notice with new product safety regulations under the Fair Trading Act 1986. This will have substantially the same effect as the current Unsafe Goods Notice, but will require compliance with only the latest 2018 standard. The previous notice was a transitional measure allowing compliance with both old (1996) and new (2018) standards.

### **Part 1: Corded window coverings**

#### **Background**

- 13 There are a wide range of window coverings on the market such as shades, blinds, curtains, and draperies. Some products such as roller blinds, concertina blinds, Roman blinds and slatted blinds like Venetian blinds have inner cords for raising, lowering, or rotating. They may also have operating cords in the form of a continuous loop, free hanging or a beaded chain.
- 14 Uncovered cords and looped or long operating cords are dangerous for young children and can cause strangulation if a child's head becomes entangled or is stuck in the cord.
- 15 Available evidence suggests that children aged between 16 and 36 months are most at risk, and that the greatest risk is in the bedroom. Children at this age are particularly vulnerable to strangulation, as their heads weigh proportionately more than their bodies, they have insufficient muscular control to free themselves, and they have underdeveloped windpipes which means they can suffocate quickly and silently, losing consciousness after 15 seconds.<sup>1</sup>

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<sup>1</sup> Australian Competition and Consumer Commission. 2019. "Review of the Safety Standard for Corded Internal Window Coverings Consultation Paper".

- 16 In New Zealand the Coroner's Office have reported three deaths associated with corded window coverings in the past 10 years.
- 17 In 2021, Coroner Borrowdale wrote a report on the death of a 19 month-old child recommending that the Ministry of Business, Innovation and Employment (MBIE) "includes, as a priority in its policy planning, the goal that the Minister of Commerce and Consumer Affairs will declare prescriptive mandatory regulations and standards designed to protect young New Zealanders from the hazards of corded blinds in domestic settings".
- 18 The Coroner also recommended parental education and MBIE's consideration of a scheme to assist occupants to replace existing corded blinds or to retrofit safety enhancements to those hazardous blinds.
- 19 Australia, Canada and the United Kingdom have existing regulations in place with requirements or specifications around labelling, cord length, installation instructions and distance to the floor.
- 20 In New Zealand, there is no specific regulation of window coverings, or window covering installation services. Installation services are subject to the primary duty of care in the Health and Safety at Work Act 2015 s36(2): "A person conducting a business or undertaking must ensure, so far as is reasonably practicable, that the health and safety of other persons is not put at risk from work carried out as part of the conduct of the business or undertaking".

### **Work undertaken by MBIE**

- 21 MBIE's intervention so far has included:
  - 21.1 engaging with retailers to raise awareness of risks associated with corded window coverings;
  - 21.2 enquiring whether retailers have safety devices in stock, such as cleats that can be installed on window frames to securely wrap cords around;
  - 21.3 commissioning a survey to gather information about consumers' understanding of the seriousness of potential risks and awareness of barriers to reducing the risks;
  - 21.4 engaging with non-government organisations to raise awareness of the risks to young children from certain window coverings;
  - 21.5 commissioning economic research from the New Zealand Institute of Economic Research on the expected costs and benefits of possible options;
  - 21.6 updating the content on the Consumer Protection website;
  - 21.7 engaging with Oranga Tamariki, Kāinga Ora, Tenancy Services to raise awareness.

- 22 MBIE recently conducted a digital campaign, including social media, targeting customers interested in purchasing blinds and recommending cordless designs. This was part of an ongoing outreach programme to educate and encourage change in consumer behaviour.
- 23 The question is now whether MBIE should complement its education role with other types of Government interventions. This is the reason for the proposal to conduct a wide consultation process.
- 24 The attached consultation document (**Annex One**) defines the problem and outlines the objective. It also discusses the proposed use of social cost benefit analysis to assess options against this objective. The consultation document invites the public to provide an opinion on different options or to put forward other solutions.

### **Objective and assessment criteria**

- 25 Experience overseas shows that regulating window coverings has not eliminated deaths completely. But in some cases, it has reduced deaths and improved outcomes.
- 26 The Government's primary objective is to reduce deaths and injuries caused by corded blinds to the extent that it is practical and cost effective to do so.
- 27 It is my view that the available non-regulatory options are not likely to sufficiently reduce deaths of young children from corded window coverings. Feedback from the consultation will enable officials to undertake a full cost-benefit analysis to inform further policy decisions.

### **Options in the consultation document**

- 28 There is a range of options to address safety risks posed by corded window coverings and each has advantages and disadvantages, as set out below. A preliminary cost benefit analysis is provided in the consultation document. This is informed by desktop research completed by New Zealand Institute of Economic Research. Feedback from the consultation document will be used to enable officials to supplement this initial research and build a more robust picture of costs and benefits.
- 29 For the purposes of the consultation document, all options are discussed and analysed separately. However, elements of these options may be combined in practice. Options 3, 4A and 4B are mutually exclusive options that address the supply of corded window coverings. I intend to use the consultation process to better understand preferred packages of options.

#### Option 1 - Information and education

- 30 This option would see MBIE continue with its education role raising awareness of risks and their mitigation and encouraging safe consumer behaviour.

- 31 The main advantages of this option are the low cost and that it can be targeted specifically to those who are in the best position to control the risk to children in their care (parents and caregivers).
- 32 There are several limitations to this approach, including:
- 32.1 targeting homes with corded window coverings where young children live may be difficult;
  - 32.2 only some caregivers are likely to take action as a result of an education campaign;
  - 32.3 cordless designs or appropriate safety devices may be unavailable, difficult to obtain, or too expensive;
  - 32.4 safety devices may not be effective if they are incorrectly installed, or incorrectly or inconsistently used.
- 33 These issues make information and education a useful complementary option, but not very effective on its own.

#### Option 2 – Remediation with Government assistance

- 34 This option would provide financial assistance to parents and caregivers to implement safety measures or update window coverings to cordless designs.
- 35 As with education, the disadvantages of this option are that it may be difficult to target towards parents and caregivers who require assistance, and installation of safety devices would still require parents and caregivers to use them correctly.
- 36 The costs of this option would fall on both the Government and taxpayers (through the financial assistance) and consumers (who would face the costs that were not covered by Government assistance). The distribution of these costs would depend on the scale of Government assistance.

#### Option 3 - Voluntary modification by businesses

- 37 Under this option, MBIE would continue encouraging businesses to improve the safety of the corded window blinds that they sell, for example by stocking cordless designs in preference to corded designs, adapting corded window coverings so they present a lesser a risk, or encouraging the use of safety devices by consumers.
- 38 This could be supported by formally issuing a product safety policy statement under the Fair Trading Act 1986 to provide guidance on the safety of window coverings.
- 39 If businesses focus on safety devices, it could have a relatively low cost. However, the effectiveness of this option at reducing risk depends on whether manufacturers, distributors and installers of corded window coverings shift to

safer products. The effectiveness would also depend on whether any safety devices are correctly used by the consumer.

- 40 Both cost and effectiveness would depend on whether the safety measures are correctly used by the consumer, as well as voluntary compliance from the manufacturers, distributors and installers of corded window coverings.

Option 4 - Mandatory product safety regulations (preferred option)

- 41 This option is compulsory and targets businesses. It entails regulating the future sale of window coverings through product safety regulations under section 29 of the Fair Trading Act 1986.

- 42 This is my preferred option. This reflects that:

42.1 None of the available non-regulatory options are likely to substantially reduce deaths from corded window coverings.

42.2 Protecting young children is a high priority, as they are not able to take independent measures to protect themselves.

- 43 There are two main options for product safety regulations, set out below.

Option 4A – Regulating safety features on corded window coverings

- 44 Under this option, mandatory safety standards would be put in place to make exposed cords safer by regulating the design and installation of exposed cord window coverings. For example, this could require that window coverings have cords that are out of reach of young children or break under pressure.

- 45 This approach is used by Australia, which has two types of regulations to ensure that cords are far from children's reach:

45.1 Trade Practices (Consumer Product Safety Standard - Corded Internal Window Coverings) Regulations 2010 that regulates design features of corded window coverings.

45.2 Competition and Consumer (Corded Internal Window Coverings) Safety Standard 2014 that regulates installation services.

- 46 Similar requirements apply in Canada, the United Kingdom and European Union.

- 47 These requirements appear to have had some success in reducing deaths from corded window coverings. Australia's rate went from 0.20 to 0.16 and Canada's rate from 0.08 to 0.04 after regulations were introduced. However, the United Kingdom's rate of 0.03 went up to 0.08.

- 48 One limitation of these requirements is that, as with options above, they may require parents and caregivers to install safety devices correctly and use them consistently. As with Option 3, this option also only directly impacts on future

installations of corded blinds, rather than corded blinds that are already installed in homes.

Option 4B – prohibiting exposed cords in window coverings

- 49 Under this option, all corded blinds imported or supplied in New Zealand would need to be free of exposed cords. This could be achieved by adopting cordless designs or covering exposed cords.
- 50 This option would be the most effective at addressing risk from corded blinds. As with Options 3 and 4A, it only directly impacts future installations of corded blinds, rather than corded blinds that are already installed in homes.
- 51 The costs of implementing this option are currently unclear but are likely higher than the other options. A preliminary cost-benefit analysis by NZIER assumed (based on research in the United States) that cordless designs would add 10 to 20 percent to the cost manufacturing of the window coverings, and found that the costs of this option exceeded the benefits. The consultation process should assist in filling information gaps and refining cost estimates.

**International trade obligations**

- 52 The consultation paper and subsequent proposals may engage our notification and other obligations under the World Trade Organisation (WTO) Agreement on Technical Barriers to Trade. Officials will work through the necessary processes and will provide advice on any implications for our international obligations when further policy decisions are sought.

**Part 2: Multi-purpose ladders**

- 53 A multipurpose ladder is a portable ladder with joints which allow it to be rearranged to function as:
- 53.1 a single ladder, with or without a stand-off;
  - 53.2 a single or double-sided step ladder; or
  - 53.3 a scaffold or work platform.
- 54 Multipurpose ladders facilitate working at heights. The failure of multipurpose ladders, such as collapsing when in use, can cause serious injury. Ladders that do not meet official standards were banned in 2012, due to injuries attributable to structural and stability failures.
- 55 There are two standards in Australasia that specify design, functionality, durability and testing requirements for multipurpose ladders: An Australian Standard, AS 1892.1:2018 Portable ladders, Part 1: Performance and geometric requirements (the 2018 Standard), and a superseded Australian and New Zealand Standard, AS/NZS 1892.1:1996 (the 1996 Standard). Both the 1996 Standard and the 2018 Standard aim to increase the safety of



multipurpose ladders. They do this by specifying minimum requirements multipurpose ladders should meet, including requirements for warnings and labelling, design (rung spacing and gaps etc) and, of particular relevance to the safety risks identified, stability and load bearing requirements.

- 56 The Unsafe Goods Notice (Multipurpose Ladders) 2021 prohibits the sale, supply and importation of multipurpose ladders which do not meet either the 1996 Standard or the 2018 Standard. The notice was intended as a transitional notice allowing for industry to sell old stock that was tested against the 1996 Standard and is due to expire on 5 April 2023.

### **Proposal**

- 57 In anticipation of the expiry of the current unsafe goods notice, I propose to introduce regulations under section 29 of the Fair Trading Act to require multipurpose ladders to comply with the 2018 Standard.

- 58 The 2018 Standard supersedes the 1996 Standard and aims to provide a greater level of protection to users of multipurpose ladders. Some changes include:

58.1 new test report requirements;

58.2 new labelling requirements which are clearer and significantly more prescriptive, including new warnings about misuse and electrical hazards, and requirements for larger fonts and higher contrast;

58.3 the new 'higher stability' categorisation uses stability test procedures involving higher forces than the standard stability requirements;

58.4 new work platform and step stool requirements.

- 59 I understand that there is minimal cost in moving to the 2018 Standard as officials understand almost all multipurpose ladders on the market already comply with this standard, and those that do not are expected to comply by April 2023.

### **International Trade Obligations**

- 60 Officials are working through any implications related to the WTO Technical Barriers to Trade Agreement and note that the proposal does not raise any particular Trans-Tasman Mutual Recognition Agreement issues.

### **Financial Implications**

- 61 There are no financial implications from releasing the attached consultation document.

- 62 Some of the options in the consultation document have financial implications, such as businesses having to comply with more stringent requirements, and passing costs on to consumers. More work needs to be done to identify costs and the consultation process is intended to help address this.

### **Legislative Implications**

- 63 The proposals in this paper relating to multi-purpose ladders will be implemented through regulations under the Fair Trading Act 1986.
- 64 There are no legislative implications arising from releasing the attached consultation document. Some of the options in the consultation document have legislative implications, such as declaring product safety standards under the Fair Trading Act, which could be done through secondary legislation.

### **Impact Analysis**

- 65 The Treasury's Regulatory Impact Analysis team has determined that the public consultation process on corded window coverings is exempt from the requirement to provide a Regulatory Impact Statement (RIS). The exemption is based on advice that the discussion document includes the key features of an interim RIS.
- 66 MBIE's Regulatory Impact Analysis Review Panel has reviewed the attached Consultation Document prepared by MBIE. The panel considers that the information and analysis summarised in the Document meets the criteria necessary for submitters to make informed decisions on the proposals in this paper.
- 67 A full RIS will be completed at a later date to inform Cabinet's final decisions on this proposal once it returns from consultation.
- 68 The Treasury's Regulatory Impact Analysis team has determined that transitioning multipurpose ladders to a new safety standard is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor impacts on businesses, individuals, and not-for-profit entities.

### **Climate Implications of Policy Assessment**

- 69 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

### **Population Implications**

- 70 The consultation document for corded window coverings is intending to address impacts on young children and their families. Different possible solutions, to be discussed during the consultation process, may impact on different groups in the community.

### **Human Rights**

- 71 The proposal to conduct a wide consultation process is consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

## Consultation

- 72 The Treasury, New Zealand Customs Service, Department of the Prime Minister and Cabinet, Ministry of Health and the Commerce Commission were consulted on the contents of this Cabinet paper.
- 73 The New Zealand Customs Service, Ministry of Health, Ministry of Social Development, Oranga Tamariki, Commerce Commission, WorkSafe were consulted on the contents of attached consultation document.
- 74 A wide public consultation process will assist in gathering information to inform the advantages and disadvantages of the options itemised above.

## Communications

- 75 The corded window covering consultation document will be published on the MBIE website. Other means of consultation are also being explored by officials (e.g. social media, newsletters, Zoom meetings, etc).
- 76 For multi-purpose ladders, MBIE will communicate this change with a press release as well as engagement with industry groups to ensure awareness of the updated compliance requirements.

## Proactive Release

- 77 This paper will be proactively released with any necessary redactions no later than 30 working days after Cabinet's decisions are confirmed.

## Recommendations

The Minister of Commerce and Consumer Affairs recommends that the Committee:

### Corded window coverings

- 1 note that, in New Zealand, there have been three deaths of children in the past 10 years due to corded window coverings;
- 2 note that the attached consultation document seeks public feedback on a range of regulatory and non-regulatory options to address these safety concerns;
- 3 note that the consultation document states that the Government's preferred approach is to regulate corded window coverings under the Fair Trading Act to address the risk to young children, subject to further work and consultation;
- 4 note that the consultation document includes preliminary social cost benefit analysis based on desktop research by the New Zealand Institute of Economic Research, and I intend to use the consultation process to better understand the costs and benefits of each option;
- 5 agree to the release of the attached consultation document;

- 6 authorise the Minister of Commerce and Consumer Affairs to make minor and technical changes to the consultation document before it is released if needed.

**Multi-purpose ladders**

- 7 note that multipurpose ladders are currently regulated by an unsafe goods notice under the Fair Trading Act 1986;
- 8 note the unsafe goods notice is due to expire on 5 April 2023;
- 9 agree to require that multipurpose ladders comply with AS 1892.1:2018, with modifications for New Zealand consistent with the Unsafe Goods Notice (Multipurpose ladders) 2021;
- 10 agree to give effect to the above proposals through regulations under section 29 of the Fair Trading Act 1986;
- 11 authorise the Minister of Commerce and Consumer Affairs to make decisions on minor or technical issues, consistent with the policy decisions in this paper, that arise in drafting;
- 12 invite the Minister of Commerce and Consumer Affairs to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above paragraphs.

Authorised for lodgement

Hon Dr David Clark

Minister of Commerce and Consumer Affairs