

**REGULATION REVIEW COMMITTEE**

**PARLIAMENT OF NEW SOUTH WALES**

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**REPORT OF THE REGULATION REVIEW COMMITTEE  
ARISING OUT OF AN INQUIRY INTO THE FAIR TRADING  
(PRODUCT SAFETY STANDARDS) REGULATION 1995 SO FAR  
AS IT RELATES TO BABY WALKERS.**

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**Report No. 33** 3/51  
**December 1995**

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**Erratum**

In the appendices (page 3) to Report Number 33, Item 9 should read; Advice on case studies on baby walker injuries by Dr I Rieger, Perinatal Medicine Unit, King George V Hospital for Mothers and Babies.

## REGULATION REVIEW COMMITTEE

### MEMBERS:

Mr D Shedden, MP, (Chairman)  
Ms J Hall, MP, (Vice-Chairman)  
Ms D Beamer, MP  
Mr B Harrison, MP  
Ms J Saffin, MLC  
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### SECRETARIAT:

Mr J Jefferis, B.A. L.L.B., Director  
Mr G Hogg, Dip.Law (B.A.B.), Dip.Crim., Legal Officer  
Mr J H Donohoe, B.A., Dip.F.H.S., Committee Clerk  
Mr D Beattie, Research Officer  
Ms M Brown, Assistant Committee Officer

## FUNCTIONS OF REGULATION REVIEW COMMITTEE

The Regulation Review Committee was established under the Regulation Review Act 1987. A principal function of it is to consider all regulations while they are subject to disallowance by Parliament. In examining a regulation the Committee is required to consider whether the special attention of Parliament should be drawn to it on any ground, including any of the following:

- (a) that the regulation trespasses unduly on personal rights and liberties;
- (b) that the regulation may have an adverse impact on the business community;
- (c) that the regulation may not have been within the general objects of the legislation under which it was made;
- (d) that the regulation may not accord with the spirit of the legislation under which it was made, even though it may have been legally made;
- (e) that the objective of the regulation could have been achieved by alternative and more effective means;
- (f) that the regulation duplicates, overlaps or conflicts with any other regulation or Act;
- (g) that the form or intention of the regulation calls for elucidation; or
- (h) that any of the requirements of sections 4, 5 and 6 of the Subordinate Legislation Act 1989, or of the Guidelines and requirements in Schedules 1 and 2 to that Act, appear not to have been complied with, to the extent that they were applicable in relation to the regulation.

The Committee may, as a consequence of its examination of a regulation, make such reports and recommendations to each House of Parliament as it thinks desirable.

A further function of the Committee is to report from time to time to both Houses of Parliament on the staged repeal of regulations. The Fair Trading (Product Safety Standards) Regulation 1995 was made in connection with that repeal process.

**FAIR TRADING (PRODUCT SAFETY STANDARDS) REGULATION 1995  
(PUBLISHED IN GOVERNMENT GAZETTE  
1 SEPTEMBER 1995 AT PAGE 5407)**

**1. INQUIRY BY THE REGULATION REVIEW COMMITTEE**

At its meeting of 16 November 1995 the Committee resolved to inquire into the Fair Trading (Products Safety Standards) Regulation 1995 so far as it relates to baby walkers. The Committee invited relevant parties to give formal evidence so that it could further inform itself and determine whether it should make a report to Parliament on the matter. The inquiry was held on Thursday, 23 November 1995, in Room 814/815 at Parliament House from 9.30 am to 1.00 pm.

The Committee took evidence in relation to this regulation from the following persons:

<b>Mr David Ian Catt</b>	<b>Director, Legal and Policy, and Chairman, Products Safety Committee, Department of Fair Trading</b>
<b>Mr David Leslie Laughton</b>	<b>Manager, Products Safety and Standards Branch and Executive Officer, Products Safety Committee, Department of Fair Trading</b>
<b>Mr Aleksander Szann</b>	<b>Project Manager Standards Australia</b>
<b>Dr Catherine Lonie</b>	<b>Manager, Injury Epidemiology Unit NSW Department of Health</b>
<b>Ms Sue Liersch</b>	<b>The Baby Ark, Waverley Baby walker retailer</b>
<b>Mr Terry Elcheikh</b>	<b>E.I.C. Pty Ltd Baby walker importer</b>
<b>Ms Jacki Titherington</b>	<b>Supervisor Babyco Baby walker retailer</b>
<b>Prof Noel Levin Svensson</b>	<b>Emeritus Professor University of New South Wales Gait Analyst</b>
<b>Ms Chris Gowdie</b>	<b>Child Accident Prevention Foundation of Australia Organisation</b>

## **2. STAGED REPEAL OF REGULATIONS**

A major change to the regulation making process was the introduction of a staged repeal program for all regulations and the requirement for regulatory impact statements for principal statutory rules. This was introduced by the Subordinate Legislation Act 1989 which implemented the report of the Regulation Review Committee of July of that year on proposals for that Act. Under this legislation all regulations currently in force in NSW are being re-examined, on cost benefit and cost effectiveness principles, over a 5 year period starting on a chronological basis with the oldest of the regulations.

The staged repeal process involves the automatic repeal of existing regulations (except where exempt) made before 1 September 1990 in a staggered process over a five year period commencing on 1 September 1991. Regulations made after 1 September 1990 are automatically repealed (unless their repeal is postponed) five years after they are made. The Fair Trading (Product Safety Standards) Regulation 1995 was made in connection with that process. This regulation commenced on 1 September 1995 and it replaced the Product Safety Regulation 1988 which was repealed at the same time.

## **3. REQUIREMENTS GOVERNING THE MAKING OF A PRINCIPAL STATUTORY RULE**

Part 2 of the Subordinate Legislation Act 1989 contains the requirements that govern the making of regulations. These came into force on 1 July 1990 and require, in the case of a principal statutory rule such as the Fair Trading (Product Safety Standards) Regulation 1995, the preparation of a regulatory impact statement in accordance with Schedule 2 of the Act.

Under the provisions of that Act the Minister is required to publish a notice setting out certain details of the regulatory proposal in the Gazette and in a newspaper circulating throughout New South Wales and, where appropriate, in any relevant trade, professional, business or public interest journal or publication. This notice states the objects of the proposed regulation; it advises where a copy of the regulatory impact statement and draft regulation may be obtained or inspected, and it invites comments and submissions from the public.

Additionally, the Minister must ensure that consultation takes place with appropriate representatives of consumers, the public, relevant interest groups and any sector of industry or commerce likely to be affected by the proposed statutory rule.

## **4. THE REGULATION**

Section 26 of the Fair Trading Act 1987 authorises the making of regulations to prescribe a product safety standard for a specified kind of goods. This standard is to consist of such requirements as to:



- (a) performance, composition, contents, methods of manufacture or processing, design, construction, finish or packaging of the goods;
- (b) the testing of the goods during, or after the completion of, manufacture or processing;
- (c) the form and content of markings, warnings or instructions to accompany the goods or be placed on a vending machine for the goods or a display stand or sign adjacent to the goods; and
- (d) equipment or accessories to be supplied with the goods

as are reasonably necessary to prevent or reduce risk of injury to a person.

Section 27 prohibits the supply, by a person in trade or commerce, to a consumer of goods unless they comply with the product safety standard for those goods. The regulatory impact statement indicates that the objective of regulations made under this power is to provide protection to the public from hazards associated with certain prescribed consumer products.

The Fair Trading (Product Safety Standards) Regulation 1995 prescribes product safety standards for a number of products. The standard for baby walkers is set out in Schedule 16 of that regulation. A copy of that schedule appears as part of the regulation in Appendix No 1 to this report. In that schedule a “baby walker” is defined as a device that consists of a frame on wheels designed to support, inside the frame and with the child’s feet touching the ground, a child who has not learned to walk, being a device that is propelled by the movement of the child.

The safety standard requires baby walkers to have permanently affixed to them a label bearing the warning:

**WARNING: Avoid injuries. Baby can move fast in this walker. Never leave baby unattended. Do not allow near steps, stairs, heaters, electrical cords or hot objects.**

Additionally, the baby walker must be accompanied by written instructions on the following matters:

- (a) instructions on how the walker is to be assembled (if it is not fully assembled when sold) and the recommended position for use;
- (b) instructions on how the walker is to be maintained and cleaned;
- (c) instructions on how the walker is to be folded and unfolded (if it is capable of being folded);
- (d) a warning (if the walker is capable of being folded) that care must be taken while folding and unfolding the walker to prevent fingers being caught;
- (e) instructions on how to adjust the height of the walker (if the height is adjustable);
- (f) a warning (if the walker is capable of being adjusted) that the walker should never be adjusted with a child in it;

- (g) instructions on how to secure the latching or locking mechanism of the walker (if it is equipped with a latching or locking mechanism);
- (h) instructions on how to use the restraint system;
- (i) a warning that both feet of a child who is in the walker should be able to touch the ground;
- (j) instructions on the maximum and minimum weights and heights of children for whom the walker is designed;
- (k) a warning that the walker should not be used by a child who can walk unaided;
- (l) a warning that the walker should not be used by a child who cannot sit unaided;
- (m) a warning that a child should never be left unattended in the walker;
- (n) a warning that doors to stairways should be closed and barriers should be in place across open stairways and steps while a child is using the walker;
- (o) a warning that electrical cords and heaters, fireplaces and other hot objects, as well as any other objects or substances that may be dangerous, should be guarded or put out of reach of a child using the walker;
- (p) a warning that the walker should not be used (whether indoors or outdoors) on surfaces that have any obstructions that could cause the walker to tip over;
- (q) a warning that the walker should never be carried with a child in it;
- (r) a warning that the walker should not be used if it is damaged or broken.

The instructions and warnings must be provided with the baby walker in the form of an accompanying leaflet or swing tag. The instructions are to be accompanied by line drawings, photographs or symbols if those instructions are not by themselves sufficient to explain the steps required.

The prescribed standard, apart from some re-arrangement in the text, is the standard that was previously in force under the now repealed Product Safety Regulation 1988.

## **5. ADEQUACY OF THE REGULATORY IMPACT STATEMENT PREPARED IN CONNECTION WITH THE FAIR TRADING (PRODUCT SAFETY STANDARDS) REGULATION 1995**

The essential features of a regulatory impact statement are an identification of the objectives of the regulatory proposal and the alternative options for achieving those objectives; an assessment of the economic and social costs and benefits of the proposal and of the alternative options; details of the program to ensure compliance with the regulation and finally a statement of the consultation program undertaken with the public and relevant interest groups. These requirements are set out in Schedule 2 of the Subordinate Legislation Act.

The scale of the regulatory impact statement will depend on the importance of the regulation it covers, its priority and the resources available to carry it out. A major

purpose of it is to provide a comparison of all costs and benefits associated with the proposed regulation and of the alternatives to it.

**The Committee is of the opinion that the regulatory impact statement prepared in connection with the Fair Trading (Product Safety Standards) Regulation 1995 does not adequately comply with the requirements of the Subordinate Legislation Act 1989. The reasons follow:**

- **Lack of enforceability of the regulation:**

The preferred option in the regulatory impact statement was to remake the existing regulation. The principal benefit was that the mandatory nature of the standard would help minimise accidents arising from the use of baby walkers. The regulatory impact statement said that suppliers of baby walkers who did not comply with the standard would be in breach of the Fair Trading Act and could be prosecuted. This would be a significant deterrent to less responsible suppliers entering the market. The maximum penalty for breaching these regulations is \$20,000 for individuals and \$100,000 for companies.

However, this is not the legal position in regard to most baby walkers sold in New South Wales. The 1993 report of the New South Wales Products Safety Committee (Appendix No 3) states that the majority of baby walkers available in New South Wales are distributed from other States, in particular, Victoria. The report says that with full implementation of mutual recognition, baby walkers imported into New South Wales from other States and Territories will not have to comply with any New South Wales legal restrictions on supply (including labelling requirements). This was confirmed, in clear terms, by the Chairman of the Products Safety Committee during the course of the inquiry conducted by the Regulation Review Committee.

**COMMITTEE:**

*The regulatory impact statement shows that about 95 percent of baby walkers are coming into New South Wales through Victoria. On the basis of the mutual recognition laws, the fact that Victoria has not got any requirements such as New South Wales has, is it true to say that no supplier in New South Wales who obtained a baby walker through Victoria would have to comply with your regulation at all?*

**MR CATT:**

*That is correct. The effect of mutual recognition would be that a product that is imported from another State and which complies with the local requirements of that State - which in this case is zero - would not have to comply with our requirements provided that the product bore the State of origin. So that is the only requirement under the mutual recognition legislation.*

**The New South Wales product safety standard for baby walkers is, for practical purposes, unenforceable in New South Wales. Accordingly, the statutory rights**

given to consumers, who suffer loss or damage in the circumstances mentioned in section 27 of the Act, would not be available in the case of baby walkers originating from another State. At the present time therefore, reliance must be placed on voluntary compliance by industry. This was not the intention of the regulatory proposal.

- **Compliance and inspection costs:**

The regulatory impact statement was inadequate in its treatment of these costs. At paragraph 21.1 it said:

*“21.1 Costs to the government for administration and enforcement are considered to be minimal. Less than \$1,000 per year would be a reasonable figure for carrying out routine monitoring and inspection.”*

During the inquiry the Chairman of the Products Safety Committee was questioned on the sufficiency of this amount. He conceded that a single departmental prosecution would cost more than \$1,000.

**COMMITTEE:**

*Could I ask a final question relating to the regulatory impact statement with regard to the costs of compliance. Your regulatory impact statement talks about the costs of developing and promulgating standards but seems to make no reference to the costs of prosecuting and ensuring compliance and inspection. Has there been any assessment made of those costs by the Department of Fair Trading?*

**Mr CATT:**

*The statement does refer to the costs of monitoring the marketplace and basic compliance procedures. The amount identified is not large; it is around the thousand dollar mark. But I think that is to be understood on the basis that we are talking about the re-making option----*

**COMMITTEE:**

*But your cost is, you said, less than a thousand dollars a year, which would be a reasonable cost of carrying out routine monitoring and inspection.*

**Mr CATT:**

*That is right.*

**COMMITTEE:**

*If you were going to launch a prosecution, it would be a hell of a lot more than a thousand dollars.*

**Mr CATT:**

*That is correct.*

**COMMITTEE:**

*Well, should that not be assessed in the regulatory impact statement?*

**Mr CATT:**

*That is definitely a cost that could have been in contemplation and identified. I think it was not given tremendous weight because of the educational programs that have been conducted since the commencement of the regulation in November 1994 and the general adherence of suppliers to it.*

The limited sum is significant because it reflects the apparent low priority being accorded by the Department of Fair Trading to the need to enforce the regulation (including monitoring market place and basic compliance procedures) and assess its effectiveness. This runs counter to the vigilant monitoring of the situation recommended by the Products Safety Committee. This situation should be brought to the attention of the Minister.

- **Effectiveness of the standard in reducing accidents:**

The regulatory impact statement (Appendix No 2) says that the objects of the regulation are to reduce the frequency of injury to young children from accidents associated with baby walkers and to reduce the severity of injury often sustained in baby walker accidents. The standard in the present 1995 regulation is the same as the standard gazetted on 22 July 1994 (commencement date 1 November 1994) as an amendment to the previous Product Safety Regulation 1988. That standard was brought in as a consequence of recommendations made by the Products Safety Committee in its report of 21 June 1993.

In that report the members agreed that some positive strategies were needed to help reduce the incidence of injuries linked to the use of baby walkers. Members said that the Minister should be urged to strongly discourage the use of baby walkers and that Consumer Affairs should vigilantly monitor any changes in baby walker injuries. They also agreed that a time frame to the end of 1994 should be placed on the program at which time the Department should review its effectiveness. At this time, the matter should be again referred to the Products Safety Committee to examine stronger action. It said consideration should be given to banning the product should initiatives prove ineffective in reducing the incidence of injury.

Although the Products Safety Committee said this review of the effectiveness of the standard in reducing accidents should begin at the end of 1994, it has not yet commenced. The Department of Fair Trading, in their regulatory impact statement, said that because the standard only commenced in 1994 there had not been a sufficient time span to properly assess the effectiveness of the standard. Cautionary labelling of baby walkers has been in force since 1 September 1978. On that date an order was introduced restricting the supply of baby walkers unless the following warning label was affixed:

**“Caution: Babies can move freely in this product. Maintain careful supervision. Do not allow near fires, radiators or stairways.”**

Although this warning was considered as not forceful enough by the Products Safety Committee, it nevertheless carries the core message of the present requirements which are directed towards improving the supervision of the use of baby walkers. There has for many years also been a variety of other public sources providing information on dangers arising from the use of baby walkers. It was also clear from evidence given by Mr Laughton at the Inquiry that the Department of Fair Trading has, over the last 5 years, focused on educating consumers in the use of baby walkers.

The Committee considers that the experience of 17 years of cautionary labelling and the public information available over several years drawing attention to dangers associated with the use of baby walkers should have provided the Department of Fair Trading with adequate data to carry out an appropriate assessment of their impact. The need to do this should have been clearly evident from the important safety objectives of the regulation and also from the knowledge that the staged repeal provisions of the Subordinate Legislation Act would require a full and effective review of the regulatory controls in time to put in place a new regulation by 1 September 1995.

The Federal Bureau of Consumer Affairs in its Discussion Paper of August 1993 (Appendix No 4) doubts whether warning labels will reduce the number of accidents in baby walkers. At paragraph 42 the paper says:

*“It is questionable, however, whether in practice a warning label - no matter how prominent - will reduce the number of accidents in baby walkers. Accidents will occur (and have been occurring) even with warning labels on walkers or other warnings contained in the instructions for use. Although a warning label may have some effect in reducing accidents and the resultant injuries, it will not be as effective (or certain) in reducing these accidents as a total ban on walkers.”*

The regulatory impact statement should have included a review of available literature and studies on the affects of education campaigns and warning labels. The Discussion Paper draws attention to such a study. At paragraph 48 it says:

*“A study into walker injuries (“Patterns of Walker Use and Walker Injury” by Rieder, Schwartz and Newman, 1986) has shown that despite an accident and injury occurring, even one as serious as fracture, parents are more likely than not to continue using a baby walker (on occasion resulting in another injury), and home safety measures are also more likely than not to be unchanged as a result of a walker injury. It therefore appears that parental behaviour may not be changed by an education campaign (and warning label).”*

Later in the same discussion paper the Bureau said:

*“Once again, however, it is not clear whether an (expensive in all likelihood) education campaign, in practice, will be as effective in reducing baby walker accidents as other options. Public information on baby walker use is already currently made available to consumers from a variety of sources eg, from the Child Accident Prevention Foundation, Children’s Hospitals, State Health Departments and Injury Surveillance Units, and State Consumer Affairs agencies, etc.*

*Instructional material on safe baby walker use and warnings other than (and in addition to) the NSW regulation requirement already accompanies many of the walkers the Bureau has seen on the market. Continuing and frequent media reports on the risks of using walkers also serve to increase consumer awareness of the problem. The unfortunate fact is that accidents have continued to occur in large numbers even with this information available and, in all likelihood, will still occur even with the most expensive and comprehensive of education campaigns. Any effect of an education campaign in reducing injuries and accidents is likely to be only short term, while the effect of the market itself (consumers and suppliers) “banning” the product may take a long time - possibly as much as a generation - to manifest itself. In the meantime, the community would continue to bear the cost of injury accidents caused by baby walkers.”*

**These views cast considerable doubt on the adequacy of the regulatory impact statement and of the justification in it, of proceeding without further evidence to remake the regulation without any substantive change. The lack of any proper study to substantiate reintroduction of the regulation in the same form is a major weakness of the regulatory impact statement. These considerations should have led to an examination by the department of the option of postponing the repeal of the standard for baby walkers.**

**The Products Safety Committee in its 1993 report detailed various strategies to reduce the incidence of injuries linked to the use of baby walkers. These strategies, such as updated labelling, were implemented in a subsequent amendment to the regulation. The Products Safety Committee concluded “that a time frame to the end of 1994 should be placed on the program at which time the Department should review its effectiveness.” This was a clear indication to the Department that the same standard should not be brought forward again unless this review justified it. The Department appears to have ignored this recommendation.**

**The Minister for Consumer Affairs, in her letter to the Regulation Review Committee dated 3 October 1995 (Appendix No 7), advised that the effectiveness of the safety standard is intended to be reviewed by the end of 1995 as part of the action plan of the New South Wales Injury Expert Panel set up by the New South Wales Health Department. Evidence given to the Committee by Dr C Lonie,**

Manager, Injury Epidemiology Unit, New South Wales Department of Health, shows that this panel is defunct. (See transcript at page 24)

In view of the lack of evidence to support the effectiveness of the previous standard for baby walkers, its repeal should have been postponed under Section 11 of the Subordinate Legislation Act. This could have been done by repealing and remaking all the other standards and allowing the Product Safety Regulation 1988 to remain in force in regard to baby walkers for a further year so that the necessary studies could be carried out to determine if its re-introduction was in the public interest.

- **Accident statistics associated with the use of baby walkers:**

The National Injury Surveillance Unit has concluded that baby walkers show a much higher level of risk than other nursery products.

Information obtained from the N.I.S.U. (Appendix No 11) in relation to accidents concerning the use of baby walkers, playpens, baby exercisers and baby cots shows that the ratio of accidents associated with baby walkers is far higher. For example, there were 52.6 times as many injuries related to baby walkers as there were related to playpens; 21 times as many injuries related to baby walkers as there were related to baby exercisers and 5 times as many injuries related to baby walkers as there were related to cots.

Comparing the use of baby walkers with other equipment used with babies such as prams, strollers, high chairs and changing tables, the ratio of accidents to baby walkers varies from 2.2 times higher to 3.4 times higher using baby walkers as compared to the other nursery equipment.

These statistics demonstrate that baby walkers present a much higher level of risk than other nursery products normally found within the home. The N.I.S.U. report notes that while detailed exposure data is lacking, the estimates of relative frequency show such a marked excess for baby walkers that it is unlikely that differential exposure would account for the imbalance. It said the absolute and relative numbers of injuries, regardless of exposure, justify some preventative action.

The National Injury Surveillance Unit also examined whether the rate of injury amongst baby walker users is higher than non-users. On this issue the Unit commented:

*"...There is no data available to measure the injury rates of children exposed to baby walkers and those not. Answering this question would require an expensive, time consuming and detailed study to properly address complicated issue of interaction effects between population characteristics and product use...."*

- **Assessment of the costs of the Regulation:**



The regulatory impact statement omits, in regard to the assessment of the costs of the regulatory proposal - that is option 1 - the costs to the community that are going to be borne by the continuing accidents that arise from the use of baby walkers despite the regulation. At page 47 of the RIS, the list of costs are restricted to administration, enforcement, industry costs and increases in cost to consumers. No mention is made of the social and economic costs to the community of the accidents that are still occurring. Although the RIS, in relation to the benefits of option 1 estimates the expected savings on hospital care brought about by a reduction in accidents, no quantification is made of the continuing costs that will arise from the failure of the regulation to eliminate all accidents.

- **Baby walkers and developmental problems:**

One of the conclusions of the 1993 Report of the Products Safety Committee was that members could not find any evidence to suggest that the use of baby walkers resulted in developmental problems in infants. In his evidence at the Inquiry before the Regulation Review Committee, Professor Svensson, in answer to a question as to whether he saw any danger with baby walkers as far as children being able to manoeuvre them or stand in them said:

**PROF. SVENSSON:**

*There are two aspects. One is that I see the problem of dangers, particularly if there is a lack of supervision and of the mobility of these items. I believe that they are probably satisfactory in terms of their stability within themselves. The other issue is that I see no beneficial outcome from these devices in terms of the ability of the child to walk.*

In response to a question as to whether he saw any detrimental effect from attempting to walk at too early an age, Professor Svensson stated:

**PROF. SVENSSON:**

*The reason for the opinion that I just expressed was that there are two issues involved in walking. One is the skeletal and muscular strength, and the other is the neurological processes to phase the relationship between the two movements. That particular aspect is one that we had looked at with regard to spinally-injured people who were partially affected.*

*To me, if it encourages children to walk earlier than their muscular and skeletal development would normally allow, then there are not, I suspect, severe dangers in terms of the long-term ability but it can cause some deformations, such as bandiness, for example. The other issue is that from the point of view sitting and propelling oneself along, it is not the natural process and therefore is giving some of the wrong signals to the neurological control systems in the body.*

Professor Svensson was also asked about the possible ill-effects on frame development being related in any way to the length of time that the child may be in the walker:

**PROF. SVENSSON:**

*The body always reacts to what it is doing, and the younger the child the more pliable the bones; they have not yet ossified. The whole structure is very flexible, and the longer it is held in a particular position or in a particular style of movement, then the more ingrained that becomes in the child. It can subsequently get out of that gait and correct itself to an extent, but the longer it is subjected to poor posture, the more permanent will be the effects of it.*

Professor Svensson, in answer to a question on obtaining evidence to determine whether gait deficiencies arise from the use of a baby walker, stated:

**PROF. SVENSSON:**

*I think you come up against the classical ethical problem: If there is a fair suspicion of something being wrong, do you do nothing about it, and take the group of children who are exposed to that hazard, if it perceived as such, and allow them to remain that way, and then do a gait study? You could not do a gait study on someone below the age of probably 18 months or perhaps older, and it is then perhaps a year after the damage has been done.*

*So I would tend to be looking at it from a theoretical point of view that the muscular/skeletal system is developing, and it is very fluid. We know that if you immobilise limbs for any length of time, and if you apply forces to bone for some time, that will change the limb. Therefore the implication is that an incorrect posture in a developing skeleton will lead to some damage, which can be rectified. But the balancing of all of that and the doing of that research is not easy. It creates an elemental ethical problem.*

Questioned further on the ethical problems and lack of hard evidence in this matter, Professor Svensson stated:

**PROF. SVENSSON:**

*My opinion, I guess, would be that if there is a doubt and if there is no strong benefit in having the device - and I think that motor cars were mentioned before, and there are benefits in people having cars - there are benefits, even if misused, in having child restraint systems. But, in my case, I would see the potential for danger. I see no real benefits to the child. It is a play substitute for the benefit of the mother. Therefore I would say they should not be available.*

Further information on the physical development of children using baby walkers is outlined in page 7 of the Discussion Paper of August 1993 by the Federal Bureau of Consumer Affairs. The information is as follows:

*“There have also been some concerns expressed in Australia and overseas that baby walkers do not assist the physical development of a child, and can inhibit the physical development of a child. The Bureau understands, however, that these views are not held universally by child experts and are a matter of differing opinions. The Bureau has examined some of the studies (eg, “Influence of an Infant Walker on Onset and Quality of Walking Pattern of Locomotion: An Electromyographic Investigation” by Kauffman and Ridenour, 1977) that have been done overseas on this subject. The evidence from these studies seems to generally suggest that the use of baby walkers may lead to some developmental delay in the attainment by some children of milestones such as balance, sitting, crawling, walking, etc; and to “bad habits” such as encouraging infants to walk on their toes, particularly if used for long/excessive periods. This situation appears to be only temporary, however, as walker trained infants tend to adjust their movements fairly quickly to resemble those of infants which have not been placed in a walker once they are no longer placed in a walker. The seriousness of an infant (possibly) commencing unassisted walking two weeks later than another, for example, because the former had spent time in a walker while the latter had not, does not seem comparable to the real safety problem which is the many accidents and injuries occurring to babies in walkers.”*

**The Committee considers that this issue would need examination in the event that the regulation remained unchanged.**

- **Examination of the option of prohibiting the supply of baby walkers:**

This was one of the options mentioned in the regulatory impact statement. Its consideration was, however, limited to the following paragraph:

*“There have also been calls to ban the sale of the product. This has not been supported because of doubts about whether the product itself is dangerous, and uncertainty about the legality of banning orders under the relevant Commonwealth and State Legislation.”*

No mention was made of this option in tables 7 and 8 of the regulatory impact statement which set out various quantified costs for the particular options. The Committee finds it difficult to understand why this option was not thoroughly evaluated in the regulatory impact statement as one of the benefits of it would be the total elimination of accidents if the ban could be implemented. The examination of this option would involve an assessment of the legal authority to make such a ban and to enforce it; the merits of making such a ban; and the costs of doing so.

Section 31 of the Fair Trading Act says that the Minister may make a conditional or unconditional order prohibiting the supply of goods of a specified kind. This action may be taken after the Minister has considered a report and any recommendations of the Products Safety Committee relating to goods.

Under Section 28 of the Fair Trading Act the Minister can refer certain prescribed questions to the Products Safety Committee. One of these is whether the supply of goods should, because they are dangerous, or a possible source of danger, be prohibited or allowed subject to conditions or restrictions to be specified by the Committee. It would seem to be fairly clear from this that if the Committee found the goods to be either dangerous or a possible source of danger that it could recommend to the Minister that their supply be prohibited and the Minister could act on that recommendation by virtue of Section 31 of the Act. However the regulatory impact statement, at paragraph 20.10, says that uncertainty exists about the legality of banning orders under the relevant Commonwealth and State Legislation. The Committee has been supplied with a copy of the advice given in respect of the Commonwealth Act and this appears as Appendix 10 to this report.

In the course of the inquiry the Committee asked Mr Catt, the Chairman of the Products Safety Committee, to clarify this issue:

**COMMITTEE**

*I have two questions. One is to do with what power you have to recommend or have products banned. We have looked at the Chief General Counsel's advice on the Trade Practices Act which suggests that at the Commonwealth level, because the product is not inherently defective, and therefore unsafe, it cannot be banned. What is the situation in New South Wales? Is the situation the same?*

**Mr CATT:**

*We take the view that it would differ. There has been mention that we had for some years an unconditional banning order which related to baby walkers as a generic product. That was an order made under the Consumer Protection Act which was continued under the Fair Trading Act. So, obviously, the Minister who made that order I guess believed that there was sufficient authority under the relevant legislation to introduce a banning order.*

**COMMITTEE:**

*Have you got a written legal opinion about that?*

**Mr CATT:**

*That is going back a long time. What we did when we got access to the Acting Solicitor General's advice was that we sought an opinion from our legal branch of the then Department of Consumer Affairs, and the conclusion of that advice was that there were not any adverse implications for possible action under the Fair Trading Act arising out of the advice of the Acting Solicitor General.*

The statement in the RIS questioning the Minister's power to prohibit, by order, the supply of baby walkers is at odds with the views of the Chairman of the Products Safety Committee and is contrary to the Department's own legal advice.

Difficulties of implementing a ban would arise from the consequences of the mutual recognition of laws. The current situation is that if a baby walker can legally be sold in one state, for example Victoria, then it can legally be sold in New South Wales regardless of any restrictions or bans. If New South Wales wished to impose a ban on baby walkers it would be possible under section 15 of the Mutual Recognition (New South Wales) Act 1992 for a regulation to be made exempting baby walkers for a period of 12 months from the provisions relating to mutual recognition. Exemptions under this section can be made by regulation if they are substantially for the purpose of protecting the health and safety of persons in the State. Within the twelve month period an approach could be made to the Ministerial Council (under the Intergovernmental Agreement on Mutual Recognition) for it to decide what would be the best solution for the national marketplace. In the absence of that exemption the Minister's ban would only be effective in respect of baby walkers produced in New South Wales.

The RIS should have examined the merits, aside from any legal difficulties, of imposing a product ban on baby walkers. The significance of this option is apparent from the 1993 discussion paper of the Federal Bureau of Consumer Affairs. At paragraph 29, the discussion paper makes the following comment:

*"A ban may be appropriate as baby walker accidents and injuries are affecting those members of the community who are the most vulnerable - babies. A ban on further supply would have an immediate effect in reducing the cost to the community of injury accidents caused by baby walkers and would eliminate these costs totally in the longer term."*

The Department of Health, in its submission dated 4 August 1995, in relation to the RIS raised grave concerns in regard to option No 1 - the regulatory proposal. It said:

*"Babywalkers are inherently dangerous. Regardless of debate about supervision they are a toy designed to enable an infant to propel his or herself very rapidly, potentially to situations of extreme harm. It raises children of very limited cognitive ability to an unnatural height, within reach of many hazardous objects not otherwise accessible to a relatively immobile infant. The injuries sustained include lacerations, burns, concussions and fractures. The number of injuries reported (155 in one year) from just the sample of hospitals (5), indicates that the injuries are a significant problem."*

*Paediatricians, physiotherapists and other child developmental specialists are united in their opposition to this product not only because of the immediate injury risk they pose but because they interfere with the development of natural mobility functions of children who should be employing their muscles to learn to crawl and walk.*

*The product serves no apparent good other than as a "baby sitter" which actively encourages diminished supervision. The product is designed for the infant to move independently. To operate the product safely, the child would*

*need a much greater level of development (ie reaction times, cognitive development, gross motor skills etc) than six to twelve month olds, the intended users possess.*

*It is perceived that the additional warnings proposed in the preferred option will still result in an unacceptably high number of injuries.”*

Officers of the Department of Fair Trading did not explain during the inquiry why the department decided to proceed with the regulation in the face of this condemnation by the Department of Health.

The available statistics on the Australian market for baby walkers shows that the market for this product is in excess of 30,000 units per annum of which 15,000 units are sold in New South Wales. The estimated value of the annual product turnover nationwide is \$1.2 million (\$600,000 for NSW). Added to the figure of new baby walkers sold each year is the number of used baby walkers in the market place. One retailer at the Inquiry stated that 10 second-hand baby walkers were sold for every new baby walker sold. It is not possible to quantify the number of used baby walkers on the market but the numbers are not inconsiderable.

From evidence given to the Committee a complete ban on baby walkers may not have a critical effect on retailers and importers. The reason for this is that there are many other products for sale to the public in the baby ware industry and the “slack” would be taken up in sales of other items. This is borne out by a witness stating that he imports up to 500 items for the baby ware industry. This issue should have been fully examined in the regulatory impact statement.

The question of the compulsory recall of baby walkers should also have been considered in the context of the option of banning baby walkers. Evidence presented to the Committee shows that a considerable number of second-hand baby walkers are resold in New South Wales. Others would be handed down in families.

The Committee agrees with the comments made by the Federal Bureau of Consumer Affairs in their 1993 discussion paper that compulsory recall would not be a sensible or viable action. At paragraph 36 the discussion paper said:

*“In practice, a recall of baby walkers would be very difficult to organise and undertake. For example, some of the problems associated with a recall include: determining from what date of sale should the walkers be recalled; identifying all current and past suppliers (who may no longer exist) of this product; and, the recall may not be effective ie, some parents may not return baby walkers. Overall, the Bureau considers a recall would not be a sensible or viable course of action to consider in this case.”*

In his evidence, Mr Catt agreed that people reading the RIS should have had the benefit of an examination of the option of banning baby walkers. He said this was considered by the Products Safety Committee. However, the 1993 Report of

that Committee only refers to that option in the context of the stronger action that might be necessary in the event of warning notices proving ineffective. The report does not consider the costs and benefits of that option although these might have been considered in the deliberative sessions of the Products Safety Committee. The absence of any examination of the option of banning baby walkers is another major weakness of the regulatory impact statement.

## 6. CONSULTATION

Section 5 of the Subordinate Legislation Act requires consultation to take place with appropriate representatives of consumers, the public, relevant interest groups, and any sector of industry or commerce, likely to be affected by the proposed statutory rule. The nature and extent of the consultation is to be commensurate with the likely impact on these groups and sectors of industry.

The regulatory impact statement notes that some twenty organisations would be consulted on the regulation. Inquiries made of some of these organisations and the Products Safety Committee indicates that the consultative process was limited to sending a copy of the RIS with a covering letter to each organisation requesting comments and submissions. In view of the serious criticism made of the proposed regulation by the Department of Health, face-to-face consultation should have taken place with that department in an attempt to reconcile the differences of opinion.

The Chamber of Manufactures, in their submission, sought more time to respond - they had been given the minimum period of 21 days - so that they could adequately consult their membership of approximately 3000 organisations. This seemed a reasonable request. The Department should have met with that organisation to discuss its difficulties. The Australian Consumers' Association expressed concern with the rate of accidents that were still occurring. It must also have been clear to the Department of Fair Trading from the submissions made to the Products Safety Committee that there were a number of other organisations that should be consulted in depth.

The Committee is of the opinion that the extent of consultation was insufficient to satisfy the requirements of the Subordinate Legislation Act.

## 7. THE NATIONAL PERSPECTIVE

The Chairman of the Products Safety Committee, in his evidence to the Committee said, in respect of baby walkers:

**Mr CATT**

*"...We are really dealing with a national market-place for this particular product. The utility of a ban by one particular jurisdiction in a national market-place, with the existence of mutual recognition, is very much open to question."*

The Ministerial Council on Consumer Affairs has currently directed that the Consumer Products Advisory Committee review, by 30 June 1996, all product safety and information standards and bans throughout Australia. The Ministerial Council is a formal meeting of Ministers which is convened on a regular basis for the purpose of intergovernmental consultation, cooperation, joint policy development or joint action. Ministerial Councils comprise representatives from the Commonwealth, States and Territories.

**The Committee considers that this directive should provide the Department of Fair Trading with an opportunity to present to the Council, through the Minister, a case for adopting, on a national basis, suitable restrictions or bans to properly regulate the use of baby walkers.**

The Federal Bureau of Consumer Affairs, in its submission to the Committee dated 21 November 1995, expressed interest in the evaluation of the results which the current New South Wales regulation has achieved. The submission stressed the value of a national approach to such safety issues. It said that it would be appropriate to involve the Consumer Products Advisory Committee (CPAC), which advises the Ministerial Council on Consumer Affairs (MCCA) on developments aimed at reducing the risk of injuries relating to the use of baby walkers. It will be necessary for any further regulatory impact statement prepared at the direction of the Minister (in accordance with the recommendations of this report) to meet the standards set by the Council of Australian Governments. These are contained in its publication setting out the principles and Guidelines for national standard setting and regulatory action. The reason for this is that under the principles set by C.O.A.G. any proposals for a national standard would need to have been subject to a nationally consistent assessment process. It is clear from these Guidelines that this assessment does not necessarily have to be carried out by the Ministerial Council provided the assessment satisfies the criteria in the Guidelines.

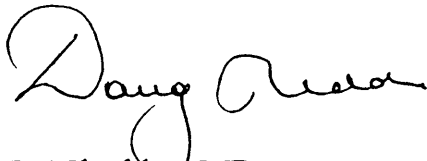
## **8. RECOMMENDATIONS**

- 1) The Committee recommends that a formal cost/benefit assessment of the Fair Trading (Product Safety Standards) Regulation 1995 so far as it relates to baby walkers be carried out at the direction of the Minister by a qualified person within 4 months so as to assess the merits of the Regulation and its alternative options. That assessment should be accompanied by adequate and effective consultation with relevant interest groups.**
- 2) The Committee recommends that following the completion of the cost/benefit assessment of the Regulation, the Minister refer to the Products Safety Committee for consideration in accordance with section 28 of the Fair Trading Act 1987, the question whether the supply of baby walkers should, because they are dangerous, or are a possible source of danger, be**



prohibited or should be allowed only subject to conditions or restrictions to be specified by the Committee. The Products Safety Committee should be given the benefit of the regulatory impact statement for the purposes of its deliberations.

- 3) The Committee recommends, after examination by the Minister of the report and any recommendations of the Products Safety Committee, that the Minister make a recommendation to the Ministerial Council for the purpose of establishing a national approach to safety issues arising from the supply of baby walkers.



D J Shedden, MP  
Chairman  
Regulation Review Committee

Dated: 7 December 1995

**FAIR TRADING ACT 1987—REGULATION**

(Fair Trading (Product Safety Standards) Regulation 1995)

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Fair Trading Act 1987, has been pleased to make the Regulation set forth hereunder.

FAYE LO PO' MP  
Minister for Consumer Affairs.

**Citation**

1. This Regulation may be cited as the Fair Trading (Product Safety Standards) Regulation 1995.

**Commencement**

2. This Regulation commences on 1 September 1995.

**Definitions**

3. In this Regulation:

“**Australian Standard**” means a standard, code or specification published by the Standards Association of Australia;

“**the Act**” means the Fair Trading Act 1987.

**Safety standards**

4. (1) The standards set out in the Schedules to this Regulation are prescribed (under section 26 of the Act) as product safety standards for the goods to which those Schedules apply.

(2) The consequences of failing to comply with a product safety standard are set out in section 27 of the Act.

**Exceptions**

5. The product safety standards prescribed by this Regulation do not apply to the supply of goods in the following circumstances:

- (a) if the supplier reasonably believes that the goods will not be used in New South Wales;
- (b) if the goods are supplied as scrap, that is to say, for the value of the materials of which the goods are composed and not for use as finished articles;
- (c) in the case of goods supplied under a credit sale contract (within the meaning of the Credit Act 1984) or under a hire-purchase agreement, if the supplier has at no time had possession of the goods and only became the owner of the goods at or after the time of entering into the agreement;
- (d) in the case of goods that are damaged, if the goods are supplied to a person who carries on a business of buying damaged goods and repairing or reconditioning them for resale, or to a person by whom the goods were insured against damage;
- (e) in the case of goods that are let on hire, or that are supplied to another person for the purpose of being let on hire by the other person, if the letting is incidental to the letting of premises or if the letting was lawful at the time when it began.

### Compliance with specification

6. For the purposes of this Regulation, goods do not fail to comply with an Australian Standard only because they do not comply with a provision of the Standard:

- (a) that is expressed to be a recommendation; or
- (b) in relation to which the word "should" or "preferably" is used to indicate that the provision is of an advisory nature only.

### Repeal

7. The Product Safety Regulation 1988 is repealed.

## SCHEDULE 1—SWIMMING POOLS: OUTLETS

### Definitions

1. In this Schedule:

"AS 1926 (Part 3)" means the Australian Standard entitled "Swimming pool safety—Part 3: Water recirculation and filtration systems" and numbered AS 1926.3—1993, as in force on 26 July 1993;

"outlet" means an opening in a swimming pool wall or floor through which water leaves the pool;

"potty skimmer" means an outlet attached to or set in a pool wall at water level:

- (a) that is used as the main suction point for the filter pump and is intended to draw water from the pool surface to remove and collect debris; and
- (b) that resembles a child's chamber-pot and is commonly known as a potty skimmer;

"swimming pool" means any excavation or structure containing water to a depth greater than 300 millimetres and used primarily for swimming, wading, paddling or the like, and includes a bathing or wading pool, but does not include a spa.

### Safety standard

2. The product safety standard prescribed for swimming pools having outlets in the form of potty skimmers is that each such outlet must comply with Clause 4.2 of AS 1926 (Part 3).

## SCHEDULE 2—SPAS: OUTLETS

### Definitions

1. In this Schedule:

"ANSI A112" means the American National Standard entitled "Suction Fittings for Use in Swimming Pools, Wading Pools, Spas, Hot Tubs, and Whirlpool Bathtub Appliances" and numbered ASME/ANSI A112.19.8M—1987, of the American Society of Mechanical Engineers, as in force on 31 December 1987;

"AS 1926 (Part 3)" means the Australian Standard entitled "Swimming pool safety—Part 3: Water recirculation and filtration systems" and numbered AS 1926.3—1993, as in force on 26 July 1993;

"outlet" means an opening in a spa wall or floor through which the water leaves the spa;

"potty skimmer" means a surface mounted outlet that resembles a child's chamber-pot and is commonly known as a potty skimmer;

"spa" means a water-retaining structure with a capacity of at least 680 litres with which is associated the facility for heating the water contained in it and injecting air bubbles or jets of turbulent water;

“surface mounted outlet” means an outlet mounted at or near the water surface level of the spa for the purpose of surface skimming.

#### **Safety standard**

2. The product safety standard prescribed for spas having outlets in the form of potty skimmers is that the spas are constructed so that:

- (a) each pump is connected to at least 2 outlets from the spa by means of a common line; and
- (b) the pipes of all outlets connected to the common line have the same diameter; and
- (c) at least 2 outlets on the common line function at the same time (except when the spa is being cleaned); and
- (d) each outlet connected to the common line is at least 600 millimetres distant from every other outlet connected to that line; and
- (e) each potty skimmer:
  - (i) is fitted with a lid complying with clause 3; and
  - (ii) passes the single blockage and total blockage tests set out in clauses 5 and 6; and
- (f) each outlet other than a potty skimmer:
  - (i) is fitted with a protective cover that can be removed only with the use of a tool; and
  - (ii) complies with clause 4.

#### **Requirements for lids for potty skimmers**

3. (1) A lid for a potty skimmer must carry the following warning:

**WARNING: LID IS NOT TO BE REMOVED WHILE SPA IS OPERATING**

(2) The warning:

- (a) must be visible on the upper surface of the lid; and
- (b) must be moulded or engraved in (or otherwise permanently attached to) the lid in such a way that it will remain legible despite normal use and handling of the lid; and
- (c) must show the word “WARNING” in upper case letters at least 5 millimetres high; and
- (d) must show the remaining words in upper case letters at least 2.5 millimetres high.

#### **Requirements for outlets other than potty skimmers**

4. An outlet other than a potty skimmer (whether surface mounted or not):

- (a) must pass the Hair Entrapment Test set out at Clauses 5.1–5.3 of ANSI A112 (in which an outlet is referred to as a “suction fitting”); or
- (b) must comply with Clause 5.1 (a) of AS 1926 (Part 3).

#### **Single blockage test for potty skimmers**

5. (1) The single blockage test for a potty skimmer is to be conducted as follows:

- (a) the potty skimmer lid, and any other safety features of the potty skimmer that can be removed without the use of a tool or excessive force, is to be removed;
- (b) the spa is to be operating with other normal safety features (such as cut-out switches, if supplied, and protective covers on outlets other than potty skimmers) functioning or in place;
- (c) after the spa has been operating for at least one minute, the potty skimmer is to be blocked.

(2) Suction in the blocked potty skimmer is to be measured for at least 15 seconds after the blockage.

(3) The suction must not exceed 12 kilopascals.

**Total blockage test for potty skimmers**

6. (1) The total blockage test for a potty skimmer is to be conducted as follows:
- (a) the potty skimmer lid, and any other safety features of the potty skimmer that can be removed without the use of a tool or excessive force, is to be removed;
  - (b) the spa is to be operating with other normal safety features (such as cut-out switches, if supplied, and protective covers on outlets other than potty skimmers) functioning or in place;
  - (c) after the spa has been operating for at least one minute, all outlets are to be blocked simultaneously, with outlets other than surface mounted outlets being sealed.
- (2) Suction in the blocked potty skimmer is to be measured for at least 15 seconds, beginning one second after blockage.
- (3) The suction must not exceed 1 kilopascal.

**SCHEDULE 3—SUNGLASSES AND FASHION SPECTACLES****Definitions**

1. In this Schedule:

“AS 1067 (Part 1)” means the Australian Standard entitled “Sunglasses and fashion spectacles—Part 1: Safety requirements” and numbered AS 1067.1–1990, published on 17 September 1990 as amended by Amendment No. 1 of 10 December 1990 and Amendment No. 2 of 12 July 1993;

“sunglasses” and “fashion spectacles” mean sunglasses and fashion spectacles having lenses of nominally zero refractive power and include sunglasses and fashion spectacles of the one-piece or visor type and clip-on sunglasses, but do not include:

- (a) glasses for special use (such as glasses for use while target shooting) that do not primarily provide protection against sunglare or radiation from natural sunlight in the circumstances set out in Clause 1.3.7.2 or 1.3.7.3 of AS 1067 (Part 1); or
- (b) goggles that are held in position by means of a strap passing around the back of the head; or
- (c) glasses that, in industrial environments, provide protection from radiation other than solar radiation or protection from physical impact; or
- (d) glasses for use as toys that are clearly and legibly labelled as toys.

**Safety standard**

2. The product safety standard prescribed for sunglasses and fashion spectacles is that they must comply with AS 1067 (Part 1).

**Variation of AS 1067 (Part 1)**

3. For the purposes of this Schedule, AS 1067 (Part 1) is taken to have been amended as follows:

- (a) by omitting Clause 1.1;
- (b) by inserting in Clause 2.2.1 (b) after the words “this point” the following words:  
except for children’s sunglasses.

Children’s sunglasses with frames too small for measurement from 32 millimetres from the centreline of the frame are to be measured at 6 selected points within a circle of 30 millimetres diameter around the datum centre of each lens.

- (c) by inserting in Clause 2.2.1 (c) after the words "these points" the following words:  
except for children's sunglasses.  
Children's sunglasses with frames too small for measurement from 32 millimetres from the centreline of the sunglass are to be measured from a point 25% of the width of the lens measured on either side of the centreline that lies in the horizontal plane that would bisect the eyes when the visor is worn and at 6 selected points within a circle of 30 millimetres diameter centred on the points.
- (d) by omitting the boxes around the markings set out in Clauses 4.2.2, 4.2.3 and 4.2.4 (both Type (a) and Type (b)).

#### SCHEDULE 4—PEDAL BICYCLES

##### Definitions

1. In this Schedule:

"AS 1927" means the Australian Standard entitled "Pedal Bicycles for Normal Road Use—Safety Requirements" and numbered AS 1927-1989, as in force on 19 May 1989;

"pedal bicycle" means a two-wheeled pedal vehicle that is designed to be solely human-powered, and includes a fully assembled or partially assembled bicycle, but does not include any such vehicle:

- (a) that has a wheelbase of less than 640 millimetres; or
- (b) that is designed, promoted and supplied primarily for use in cycling competitions; or
- (c) that is a one-of-a-kind bicycle, being a bicycle that is uniquely constructed to the specifications of an individual consumer; or
- (d) that is designed to be hinged or folded, or to be taken apart beyond removal of the front wheel, for ease of storage or portability; or
- (e) that is a tandem bicycle; or
- (f) that is a second-hand bicycle.

##### Safety standard

2. The product safety standard prescribed for pedal bicycles is that they must comply with AS 1927.

##### Variation of AS 1927

3. For the purposes of this Schedule, AS 1927 is taken to have been amended as follows:

- (a) by omitting from Clauses 1.1, 2.1, 2.2, 3.1 and 4.1 the word "sale" wherever occurring and by inserting instead the word "supply";
- (b) by omitting Clause 1.2;
- (c) by omitting Clause 1.5 (a) and by inserting instead the following paragraph:
  - (a) The registered name and address of the Australian manufacturer or assembler or the registered name and address of the Australian distributor of the pedal bicycle.
- (d) by omitting from Clause 2.14.2.8 the word "provided" and by inserting instead the word "fitted".

#### SCHEDULE 5—REFLECTORS FOR PEDAL BICYCLES

##### Definitions

1. In this Schedule:

"AS 2142" means the Australian Standard entitled "Reflectors for Pedal Bicycles" and numbered AS 2142-1978, as in force at 1 January 1986;

“pedal bicycle” means a two-wheeled pedal vehicle that is designed to be solely human-powered;

“reflector” means a retro-reflective device that is intended to be attached to a pedal bicycle.

#### Safety standard

2. The product safety standard prescribed for reflectors is that they must comply with AS 2142.

### SCHEDULE 6—PROTECTIVE HELMETS FOR PEDAL CYCLISTS

#### Definitions

1. In this Schedule:

“AS 2063 (Part 1)” means the Australian Standard entitled “Lightweight Protective Helmets (For Use In Pedal Cycling, Horse Riding And Other Activities Requiring Similar Protection)—Part 1: Basic Performance Requirements” and numbered AS 2063.1–1986, as in force on 4 August 1986;

“AS 2063 (Part 2)” means the Australian Standard entitled “Lightweight Protective Helmets (For Use In Pedal Cycling, Horse Riding And Other Activities Requiring Similar Protection)—Part 2: Helmets for Pedal Cyclists” and numbered AS 2063.2–1990, as in force on 15 April 1991;

“AS 2512 (Part 1)” means the Australian Standard entitled “Methods Of Testing—Protective Helmets—Part 1: Definitions and Headforms” and numbered AS 2512.1–1984, as in force on 6 April 1984;

“protective helmet” means a helmet designed to mitigate the adverse effects of a blow to the head.

#### Safety standard

2. The product safety standard prescribed for protective helmets for pedal cyclists is that:

- (a) they must comply with AS 2063 (Part 2); and
- (b) they must be marked, in the manner set out in Clause 8 of AS 2063 (Part 2), with the matter specified in Clauses 7.1, 7.2 and 7.3 of AS 2063 (Part 1).

#### Exceptions

3. (1) This Schedule does not apply to the following helmets:

- (a) helmets that are of a size too small to be fitted to the headform A as defined in AS 2512 (Part 1);
- (b) helmets that are designed and constructed principally for use by cyclists engaged in competitive racing and that are marked in accordance with subclause (2);
- (c) helmets that are designed and constructed principally for use as toys and that are marked in accordance with subclause (3), or that are not so marked but are unlikely to be mistaken for helmets providing significant protection against impact.

(2) In the case of a helmet of the kind referred to in subclause (1) (b), the words “WARNING: racing headgear only—inadequate impact protection for normal road use” must be marked clearly and legibly in a conspicuous position:

- (a) on the helmet or on a label attached to the helmet; and
- (b) on a principal outer display face of any packaging in which the helmet is supplied,

with the word “WARNING” in capital letters at least 5 millimetres high and the remaining words in letters at least 2.5 millimetres high.

(3) In the case of a helmet of the kind referred to in subclause (1) (c), the words "WARNING: toy helmet only—do not use as safety headgear" must be marked clearly and legibly in a conspicuous position:

- (a) on the helmet or on a label attached to the helmet; and
- (b) on a principal outer display face of any packaging in which the helmet is supplied,

with the word "WARNING" in capital letters at least 5 millimetres high and the remaining words in letters at least 2.5 millimetres high.

#### SCHEDULE 7—PROTECTIVE HELMETS FOR MOTOR CYCLISTS

##### Definitions

1. In this Schedule:

"AS 1698" means the Australian Standard entitled "Protective Helmets for Vehicle Users" and numbered AS 1698-1988, as in force on 9 May 1988;

"protective helmet" means a helmet designed to mitigate the adverse effects of a blow to the head.

##### Safety standard

2. The product safety standard prescribed for protective helmets for use by motor cyclists is that they must comply with AS 1698.

##### Variation of AS 1698

3. For the purposes of this Schedule, AS 1698 is taken to have been amended as follows:

- (a) by omitting from Clause 4.4 the matter "AS 1609" and by inserting instead the matter "AS 1609-1981";
- (b) by omitting Clause 8 (g).

#### SCHEDULE 8—CHILDREN'S TOYS

##### Definitions

1. In this Schedule:

"AS 1647 (Part 2)" means the Australian Standard entitled "Children's Toys (Safety Requirements)—Part 2: Constructional Requirements", and numbered AS 1647, Part 2-1981, as in force on 1 May 1981;

"children's toys" means toys for children under 3 years of age, being objects or groups of objects manufactured, designed, labelled or marketed as playthings for a child or children of an age less than 3 years, including but not limited to:

- (a) rattles, dummies, teethers and squeeze toys; and
- (b) toys to be affixed to a crib, stroller, playpen or baby carriage; and
- (c) pull and push toys, pounding toys, blocks and stacking toys; and
- (d) toys for use in bath-tubs, wading pools and sand; and
- (e) rocking, spring and stick horses and other figures; and
- (f) musical chime toys and jacks-in-the-box; and
- (g) stuffed, plush and flock animals and other figures; and
- (h) games, puzzles and dolls; and
- (i) toy cars, trucks and other vehicles,

but not including:

- (j) balloons, marbles and gramophone records; or
- (k) books and other articles made of paper; or



- (l) writing materials, including crayons, chalk, pencils and pens; or
- (m) finger paints, water colour paints and other paints; or
- (n) modelling materials, including clay, plasticine and play-dough; or
- (o) flotation aid toys for use as a means of providing buoyancy in water; or
- (p) bicycles having a wheelbase of at least 640 millimetres; or
- (q) toys that are made wholly from highly porous fabric material such as cheesecloth;
- (r) playground equipment for parks, schools and domestic use (including swings, see-saws, slides, agility apparatus, climbing, swinging, rotating and rocking apparatus, cubby houses, sand pits, apparatus for use in sand, sliding poles and ladders);
- (s) goods supplied in a wholly or partially unassembled state for assembly by an adult after supply, provided that, when assembled in accordance with the instructions supplied in writing with the goods, the goods comply with the requirements of this Schedule.

#### Safety standard

2. The product safety standard prescribed for children's toys is that they must comply with Clauses 3.2, 3.3, 3.4, 3.5, 3.9, 3.10, 3.11, 3.12, 3.16, 3.20, 3.21, 3.22, 3.23, 3.24, 3.25, 6.2, 6.8 (d), 6.12.4 (a) (iv), 8.4 and 9, and Appendix A, Appendices D to T inclusive, and Appendices V and W of AS 1647 (Part 2).

#### Variation of AS 1647 (Part 2)

3. For the purposes of this Schedule, AS 1647 (Part 2) is taken to have been amended as follows:

- (a) by omitting Clause 6.2 and by inserting instead the following Clause:  
6.2 Stuffed Toys. Stuffed toys must not produce an ingestion or inhalation hazard when tested in accordance with Appendix P.
- (b) by omitting the matter "Q" from Clause 6.8 (d) and by inserting instead the matter "O";
- (c) by inserting in Clause 8.4 after the word "made" the word "wholly" and after the word "porous" wherever occurring the word "fabric";
- (d) by omitting from Clauses 9.2.1 (Part 1), 9.2.2, 9.3.1, 9.3.2, 9.3.3, 9.3.4, 9.3.5, 9.3.6, 9.3.7, 9.3.9, 9.3.10 and 9.3.12 all words after the word "produce" wherever occurring except the words "an ingestion or inhalation hazard";
- (e) by omitting from Clauses 9.3.8 and 9.3.14 all words after "not" wherever occurring and by inserting instead the words "produce an ingestion or exhalation hazard";
- (f) by inserting in Clause 9.3.13 after the word "toy" where lastly occurring the words "so as to produce an ingestion or inhalation hazard";
- (g) by inserting in paragraph D6 after the word "hazard" the words ", except that components or pieces consisting solely of paper, fabric, yarn, fuzz, elastic or string are not considered ingestion or inhalation hazards";
- (h) by omitting from paragraphs F5 (d), G6 (j), H5 (f), J5 (g), K5 (e), L5 (h), M5 (f), N5 (h), O6 (j), R5 (g) and S5 (h) all words after the word "with" wherever occurring and by inserting instead the words "Appendix D";
- (i) by omitting paragraphs F6 (d) (i), F6 (d) (ii), G7 (c) (i), G7 (c) (ii), H6 (c) (i), H6 (c) (ii), J6 (d) (i), J6 (d) (ii), K6 (b) (i), K6 (b) (ii), L6 (i), L6 (ii), M6 (b) (i), M6 (b) (ii), N6 (d) (i), N6 (d) (ii), O7 (d) (i), O7 (d) (ii), R6 (i), R6 (ii), S6 (d) (i) and S6 (d) (ii);
- (j) by omitting from paragraphs M5 (b) and (g) the words "a hazardous sharp edge, hazardous sharp point or" wherever occurring;

- (k) by omitting from paragraph O2 the words "neither developed a hazardous sharp edge or hazardous sharp point, nor, if applicable, produced" and by inserting instead the words "did not produce";
- (l) by omitting from paragraph P1 the word "fabric" and by inserting instead the words "covering material";
- (m) by omitting from paragraphs P3 and P5 (b) the words "fabric holding";
- (n) by inserting after paragraph P6 (b) the following subparagraph:
  - (c) Whether an ingestion or inhalation hazard was produced.
- (o) by inserting in paragraph V6 (b) after the word "outlet" the words ", and whether those objects produced an ingestion or inhalation hazard";
- (p) by omitting paragraphs W6 and W7 and by inserting instead the following paragraph:
 

**W7 REPORT.** The report must state whether or not the toy produced an ingestion or inhalation hazard.

### SCHEDULE 9—FLOTATION TOYS

#### Definitions

1. In this Schedule:

"AS 1499" means the Australian Standard entitled "Personal Flotation Devices—Type 2" and numbered AS 1499–1988, as in force on 16 September 1991;

"AS 1512" means the Australian Standard entitled "Personal Flotation Devices—Type 1" and numbered AS 1512–1988, as in force on 16 September 1991;

"AS 1900" means the Australian Standard entitled "Flotation toys and swimming aids for children" and numbered AS 1900–1991, as in force on 16 September 1991;

"children's flotation toys and swimming aids" means flotation toys and swimming aids likely to be used by children of any age less than 15 years in recreational activities or to assist in swimming tuition, including but not limited to:

- (a) rings, partial rings, arm bands, and kick boards, that are inflatable, hollow moulded or made substantially from expanded foam; and
- (b) inflatable toy boats having fewer than 3 separate chambers, or having a length and width the sum of which is less than 3 metres; and
- (c) swimming vests and flotation bubbles,

but not including:

- (d) goods for therapeutic use by disabled persons; or
- (e) goods for use as life jackets that comply, or that comply substantially with AS 1512; or
- (f) goods for use as buoyancy vests that comply, or that comply substantially with AS 1499; or
- (g) goods for use primarily as a means of flotation for persons in water and in need of rescue, including goods carried in or on ships or boats for such a purpose.

#### Safety standard

2. The product safety standard prescribed for children's flotation toys and swimming aids is that they must comply with AS 1900.

#### Variation of AS 1900

3. For the purposes of this Schedule, AS 1900 is taken to have been amended by omitting Clause 1.1.

**SCHEDULE 10—CHILDREN'S NIGHTCLOTHES AND PAPER PATTERNS  
FOR CHILDREN'S NIGHTCLOTHES**

**Definitions**

1. In this Schedule:

“AS 1182” means the Australian Standard entitled “Size Coding Scheme for Infants’ and Children’s Clothing (Underwear and Outerwear)” and numbered AS 1182-1980, as in force on 1 September 1980;

“AS 1249” means the Australian Standard entitled “Children’s nightclothes having reduced fire hazard” and numbered AS 1249-1990, as in force on 16 April 1992;

“AS 2755 (Part 2)” means the Australian Standard entitled “Measurement of flame spread properties of vertically oriented specimens” and numbered AS 2755.2-1985, as in force on 4 March 1985;

“children’s nightclothes” includes children’s pyjamas, pyjama-style overgarments, nightdresses, dressing gowns and infant sleepbags of any of the sizes 0-14 (as specified in AS 1182), but not does not include any article of headwear, footwear or handwear.

**Safety standard for children’s nightclothes**

2. The product safety standard prescribed for children’s nightclothes is that they must comply with AS 1249.

**Safety standard for paper patterns for children’s nightclothes**

3. The product safety standard prescribed for paper patterns for children’s nightclothes is that they must comply with Clause 5.3 of AS 1249.

**Variation of AS 1249**

4. (1) For the purposes of clause 2 of this Schedule, AS 1249 is taken to have been amended:

(a) by omitting Clause 1.1;

(b) by inserting in Clause 2.1 (a), after the first paragraph, the following paragraphs:

If there is insufficient fabric for three lengthwise and three widthwise test specimens, as cited in Clause 8.8 of AS 2755 (Part 2), the flame spread time is to be determined on three lengthwise test specimens only.

If there is insufficient of the sample to cut test specimens into one piece, not more than two pieces cut in the same direction may be butt-jointed, but not overlapped. The butt join must be secured with five lightweight staples, spaced evenly across the test specimen. The join must not be below the centre of the specimen when attached to the vertical test frame specified in AS 2755 (Part 2).

If areas of the garment are appliqued, and the applique is made from fabric other than that of the body of the garment, the test specimens must be cut from both appliqued and non-appliqued areas. If the applique is confined to a particular area, then at least one of the test specimens must include as much of the applique as possible. The appliqued area of the test specimen must be mounted at the base of the test frame, and must be tested so that the flame impinges on the applique.

If the textile material or garments are constructed with one fabric overlaying another (for example quilted fabrics), specimens must be cut and tested as a combination, that is to say as if the overlay were appliqued to the under fabric.

(c) by omitting from the second paragraph of Clause 2.1 (a) the words “four or more of six specimens” wherever occurring and by inserting instead the words “three or more of four specimens”;

(d) by omitting from the note after the second paragraph of Clause 2.1 (a) the words “another set of three specimens” and by inserting instead the words “another specimen”;

(e) by inserting at the end of Clause 2.2 (e) the following words:

The outer fabric of a composite or applied area must be considered the fabric face and must be tested so that the flame impinges on that surface.

(f) by omitting Clause 5.3.

(2) For the purposes of clause 3 of this Schedule, Clause 5.3 of AS 1249 is taken to have been amended by omitting the words "within the scope of this Standard".

#### Variation of AS 2755

5. For the purposes of clause 4 (b) of this Schedule, AS 2755 (Part 2) is taken to have been amended:

- (a) by omitting from the last sentence of Clause 7.3 the words "another set of three specimens" and by inserting instead the words "another specimen";
- (b) by omitting the last sentence from Clause 8.7;
- (c) by omitting from Clause 8.8 the words "test another set of three specimens for that direction or face." and by inserting instead the words "test another one additional test specimen for that direction or face.";
- (d) by omitting Clause 10 (j) (iv) and by inserting instead the following subparagraph:
  - (i) If only four specimens are tested (as referred to in Clause 8.8 as taken to have been amended by clause 5 (c) of Schedule 10 to the Fair Trading (Product Safety) Regulation 1995), determine the mean from all the results that burn to the respective marker threads. Report the number of specimens that failed to burn to the marker.

### SCHEDULE 11—CHILD RESTRAINTS

#### Definitions

1. In this Schedule:

"AS 1754-1975" means the Australian Standard entitled "Child Restraints for Passenger Cars and Derivatives" and numbered AS 1754-1975, as in force on 1 July 1986;

"AS 1754-1991" means the Australian Standard entitled "Child restraint systems for use in motor vehicles" and numbered AS 1754-1991, as in force on 15 February 1993;

"chaise" means a device used for raising a child's position in a motor vehicle and adapting an adult seat belt to make it suitable for a child, being a device having a back above the seating plane;

"child restraint" means a device designed to minimise the risk of bodily injury to a child passenger in a motor vehicle in the event of a motor vehicle impact and includes:

- (a) components designed to restrain the child in the device; and
- (b) components to anchor the device to the motor vehicle; and
- (c) (if supplied) components to restrain a motor vehicle seat; and
- (d) chaises; and
- (e) cushions.

but does not include a child restraint that is an integrated feature of a motor vehicle;

"cushion" means a device used for raising a child's position in a motor vehicle and adapting an adult seat belt to make it suitable for a child, being a device having no back above the seating plane.

**Safety standard for child restraints**

2. (1) The product safety standard prescribed for child restraints up to and including 31 December 1995 is that they must comply with AS 1754-1975 or AS 1754-1991.

(2) The product safety standard prescribed for child restraints after 31 December 1995 is that they must comply with AS 1754-1991.

**Variation of AS 1754-1975**

3. For the purposes of this Schedule, AS 1754-1975 is taken to be amended:

- (a) by omitting from Clause 1.1 the words "passenger cars and their derivatives" and by inserting instead the words "motor vehicles"; and
- (b) by omitting the second sentence from Clause 1.1; and
- (c) by omitting from Clause 1.2 the words "covered by this specification".

**Variation of AS 1754-1991**

4. For the purposes of this Schedule, AS 1754-1991 is taken to be amended:

- (a) by omitting from Clause 1.1 the words "passenger cars and their derivatives" and by inserting instead the words "motor vehicles"; and
- (b) by omitting the second sentence from Clause 1.1; and
- (c) by omitting Clauses 2.4 and 2.5.

**SCHEDULE 12—BEAN BAGS****Definitions**

1. (1) In this Schedule:

**"bean bag"** means a cushion or similar item that consists of a bag or cover surrounding bean bag filling;

**"bean bag cover"** means a bag or cover capable of being filled with bean bag filling and that, if filled with bean bag filling, would constitute a bean bag and includes a bag or cover intended as a separate inner lining;

**"bean bag filling"** means pellets, or small particles, of polystyrene or other similar synthetic material capable of being used as filling for a cushion, but does not include any such pellets or particles when they are mixed with material that is not capable of being so used;

**"child resistant slide-fastener"** means a slide-fastener having a sliding piece of a kind referred to in the definition of "slide-fastener" that:

- (a) does not have attached to it any tag, handle or other object that would facilitate the movement of the sliding piece; and
- (b) incorporates a locking mechanism that prevents the sliding piece opening the slide-fastener unless a wholly separate device is used to disengage the locking mechanism and act as a handle in the moving of the sliding piece between the teeth of the slide-fastener;

**"package"** means bag, box or other similar container, but does not include a bean bag cover;

**"slide-fastener"** means a device comprising 2 sets of teeth, each set of teeth being located on adjacent edges of the device, and having an attached sliding piece that, when moved between the 2 sets of teeth, causes 1 set of teeth to interlock or cease to interlock with the other set of teeth.

(2) If a slide-fastener has more than one sliding piece of a kind referred to in the definition of "slide-fastener" in subclause (1), a reference in the definition of "child resistant slide-fastener" in that subclause to a sliding piece includes, in relation to that slide-fastener, a reference to each of those sliding pieces.

**Safety standard**

2. (1) The product safety standard prescribed for a bean bag or a bean bag cover, is that:

- (a) it must bear a label that:
  - (i) is secured to the bag or cover in such a manner that the label will, despite normal handling, remain fixed to the bag or cover; and
  - (ii) contains the following warning:  
**WARNING. Small Light-weight Beads Present A Severe Danger To Children If Swallowed Or Inhaled.**
- (b) it must be constructed so that any opening through which bean bag filling may be inserted or removed is fitted with:
  - (i) a child resistant slide-fastener; or
  - (ii) some other closing device approved in writing by the Commissioner.

(2) The product safety standard prescribed for a package containing bean bag filling is that it must bear a label that:

- (a) is secured to the package in such a manner that the label will, despite normal handling, remain fixed to the package; and
  - (b) contains the warning referred to in subclause (1) (a).
- (3) The warning:
- (a) must be printed in red letters at least 5 millimetres high on a white background; and
  - (b) must have the word "WARNING" printed in capital letters and the remaining words printed in upper and lower case letters.

**SCHEDULE 13—ELASTIC LUGGAGE STRAPS****Definition**

1. In this Schedule:

"elastic luggage strap" means an elastic strap or cord or 2 or more elastic straps or cords permanently joined and:

- (a) having a hook, buckle or other fastening device at each extremity; and
- (b) designed to be used for the purpose of securing luggage or other objects.

**Safety standard**

2. (1) The product safety standard prescribed for elastic luggage straps is that they are to have a label affixed to them bearing the following warning:

**WARNING. Avoid eye injury. Do not overstretch. Strap may rebound.**

- (2) A label referred to in subclause (1):
- (a) must be permanently affixed; and
  - (b) must bear the word "WARNING" in upper case red letters of at least 5 millimetres in height on a white background; and
  - (c) must bear the remaining words in upper or lower case letters of at least 2.5 millimetres in height; and
  - (d) must be conspicuously displayed.

**SCHEDULE 14—CELLULOSIC FIBRE THERMAL INSULATION****Definitions**

1. In this Schedule:

"AS 1530" means the Australian Standard entitled "Methods for fire tests on building materials, components and structures" and numbered AS 1530-1989, as in force on 1 December 1992;

"AS 2462" means the Australian Standard entitled "Australian Standard for Cellulosic Fibre Thermal Insulation" and numbered AS 2462-1981, as in force on 1 December 1992.

#### Safety standard

2. (1) The product safety standard prescribed for cellulosic fibre thermal insulation is that it must comply with Clause 2.5 of AS 2462.

(2) For the purpose of subclause (1), a reference in AS 2462 to AS 1530 Part 3 is taken to be a reference to Part 3 (Simultaneous determination of ignitability, flame propagation, heat release and smoke release) of AS 1530.

### SCHEDULE 15—PROJECTILE TOYS

#### Definitions

1. In this Schedule:

"AS 1647 (Part 2)" means the Australian Standard entitled "Children's Toys (Safety Requirements)—Part 2: Constructional Requirements", and numbered AS 1647.2-1992, as in force on 22 September 1992;

"projectile toy" means any toy to which Clause 7.15 of AS 1647 (Part 2) applies.

#### Safety standard

2. The product safety standard prescribed for projectile toys is that they must comply with the requirements of Clause 7.15 (including Clauses 7.15.1 (paragraph (i) excepted), 7.15.2, 7.15.3, 7.15.4 (paragraph (a) excepted), 7.15.5 and 7.15.6) of AS 1647 (Part 2).

### SCHEDULE 16—BABY WALKERS

#### Definition

1. In this Schedule:

"baby walker" means a device that consists of a frame on wheels designed to support, inside the frame and with the child's feet touching the ground, a child who has not learned to walk, being a device that is propelled by the movement of the child.

#### Safety standard

2. (1) The product safety standard prescribed for baby walkers is that:

(a) they have affixed to them a label bearing the following warning:

**WARNING: Avoid injuries. Baby can move fast in this walker. Never leave baby unattended. Do not allow near steps, stairs, heaters, electrical cords or hot objects.**

(b) they are accompanied by legible written instructions and warnings in the English language that contain the matters referred to in subclause (3).

(2) The label referred to in subclause (1) (a):

(a) must be permanently affixed; and

(b) must bear the word "WARNING" in upper case red letters at least 5 millimetres high on a white background; and

(c) must bear the remaining words in upper or lower case letters at least 2.5 millimetres high; and

(d) must be conspicuously displayed.

(3) The matters referred to in subclause (1) (b) are the following:

(a) instructions on how the walker is to be assembled (if it is not fully assembled when sold) and the recommended position for use;

(b) instructions on how the walker is to be maintained and cleaned;

- (c) instructions on how the walker is to be folded and unfolded (if it is capable of being folded);
  - (d) a warning (if the walker is capable of being folded) that care must be taken while folding and unfolding the walker to prevent fingers being caught;
  - (e) instructions on how to adjust the height of the walker (if the height is adjustable);
  - (f) a warning (if the walker is capable of being adjusted) that the walker should never be adjusted with a child in it;
  - (g) instructions on how to secure the latching or locking mechanism of the walker (if it is equipped with a latching or locking mechanism);
  - (h) instructions on how to use the restraint system;
  - (i) a warning that both feet of a child who is in the walker should be able to touch the ground;
  - (j) instructions on the maximum and minimum weights and heights of children for whom the walker is designed;
  - (k) a warning that the walker should not be used by a child who can walk unaided;
  - (l) a warning that the walker should not be used by a child who cannot sit unaided;
  - (m) a warning that a child should never be left unattended in the walker;
  - (n) a warning that doors to stairways should be closed and barriers should be in place across open stairways and steps while a child is using the walker;
  - (o) a warning that electrical cords and heaters, fireplaces and other hot objects, as well as any other objects or substances that may be dangerous, should be guarded or put out of reach of a child using the walker;
  - (p) a warning that the walker should not be used (whether indoors or outdoors) on surfaces that have any obstructions that could cause the walker to tip over;
  - (q) a warning that the walker should never be carried with a child in it;
  - (r) a warning that the walker should not be used if it is damaged or broken.
- (4) The instructions and warnings must be provided with the baby walker in the form of an accompanying leaflet or swing tag.
- (5) The instructions are to be accompanied by line drawings, photographs or symbols if those instructions are not by themselves sufficient to explain the steps required.

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## NOTES

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#### EXPLANATORY NOTE

The object of this Regulation is to repeal and remake, with minor changes only, the provisions of the Product Safety Regulation 1988. The new Regulation imposes safety standards for the various products referred to in the Schedules to the Regulation.

This Regulation is made under the Fair Trading Act 1987, including section 92 (the general regulation making power) and section 26.

The provisions of Schedules 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 comprise or relate to matters arising under legislation that is substantially uniform or complementary with legislation of the Commonwealth (namely, the Trade Practices Act 1974).

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.

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APPENDIX 2

**REGULATORY IMPACT STATEMENT**

**FAIR TRADING**

**(PRODUCT SAFETY STANDARDS)**

**REGULATION 1995**

**Enquiries to:**

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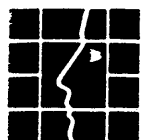
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**CONSUMER  
AFFAIRS**

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## **INTRODUCTION**

The Subordinate Legislation Act 1989 was introduced to provide for the staged review and repeal of all regulations and statutory rules in force immediately before 1 September 1990 in five annual stages, commencing on 1 September 1991. It further provides for an automatic repeal of any subsequent statutory rule on the fifth anniversary of the date of its publication in the Gazette. This is designed to rid the statute books of outmoded and unnecessary regulation, and to ensure that Government agencies consider the economic and social costs of regulatory activity and choose the option which will produce the greatest public good. If circumstances necessitate the retention of a regulation that is due to be repealed under Part 3 of the Act, the regulation must be repealed and re-made as if it were a new regulation.

Section 10 of the Subordinate Legislation Act provides that regulations published between 1 September 1986 and 31 August 1990 are to be repealed on 1 September 1995. The Fair Trading (Product Safety Standards) Regulation 1988 is thus subject to repeal.

The Subordinate Legislation Act requires the preparation of a Regulatory Impact Statement (RIS) and public consultation prior to making a regulation. An RIS is a tool of consultation. It is designed to stimulate responses from interested parties so that the most appropriate decision can be made.

## **THE REGULATORY ENVIRONMENT FOR STANDARDS SETTING**

Consumer Affairs' involvement in standards setting is primarily in the area of product safety. There are three types of product safety standards:

- voluntary standards;
- State/Territory standards; and
- National standards.

### ***Voluntary Standards***

Standards Australia publishes voluntary standards for consumer products. Consumer Affairs is represented on numerous consumer product technical committees. The purpose of the committees is to have representation from a wide range of disciplines to ensure that all stakeholders are represented. These committees aim by consensus to establish standards which, whenever possible, focus on the performance of products rather than design requirements. Whenever possible, joint Australian/New Zealand standards are prepared.

Voluntary standards have a range of benefits:

- voluntary standards act as an indicator of best business practice;
- Governments are not required to enforce the standard, thus reducing the burden on government resources;

- business will often seek to comply with voluntary standards as part of a marketing strategy;
- certification to a voluntary standard by an accredited body will ensure that companies' process standards and quality standards are assessed and accredited by an independent body.

There are some disadvantages associated with voluntary standards:

- a voluntary standard is unenforceable;
- a voluntary standard may be perceived by the consumer as relating to performance standards, when in fact, compliance may merely mean that the product complies with design standards;
- expressions like "this product complies with Australian Standards" can be confusing to the consumer - the standard is merely representative of industry best practice.

### *State/Territory Standards*

All States and Territories have fair trading/consumer protection laws under which they may prescribe product safety standards.

Features of mandatory standards are:

- they are enforceable under criminal law
- the Fair Trading Act (or equivalent) deems a supplier liable in damages if there is not compliance with a mandatory standard.

At worst, mandatory standards can act as a barrier to entry into the industry and prove costly to business. If standards are not monitored, they can be a disincentive to product innovation and lag behind updated Australian Standards on which they might be based.

Mandatory standards should only be used if there is a perceived market failure, there is danger to the community or industry cannot establish industry best practice.

This Regulatory Impact Statement proposes that NSW mandatory standards be re-made with respect to:

- skimmer boxes for swimming pools and spas
- cellulosic fibre thermal insulation
- projectile toys
- baby walkers.

It is proposed to allow standards in relation to dust masks, kerosine heaters and folding tables to lapse.

### *National Standards*

The Commonwealth has powers under the Trade Practices Act 1974 (TPA) to declare product safety standards. To make a national standard, complementary Commonwealth, State and Territory standards are required because the Commonwealth, generally speaking, can only apply its laws to corporations.

The Consumer Products Advisory Committee (CPAC) is a sub-committee of the Ministerial Council on Consumer Affairs (MCCA). The Commonwealth, all States and Territories and New Zealand are members of CPAC. It is the forum in which proposals for national mandatory standards are assessed and recommendations made to MCCA. Harmonisation of standards is also explored. CPAC will follow the Council of Australian Governments Principles and Guidelines for National Standard Setting and Regulatory Action in its deliberations.

NSW proposes to remake a number of national mandatory standards. No regulatory impact statement has been prepared because they are exempt from the requirement by virtue of clause (4) of Schedule 3 to the Subordinate Legislation Act 1989. The standards relate to:

- sunglasses and fashion spectacles
- pedal bicycles
- reflectors for pedal bicycles
- protective helmets for pedal bicycles
- protective helmets for motor cyclists
- children's toys
- flotation toys
- children's nightclothes and paper patterns for children's nightclothes
- child restraints
- bean bags
- elastic luggage straps.

### ***Mutual Recognition***

Mutual recognition means goods that meet the requirements for sale in the State or Territory where they were produced can be sold in any other State or Territory.

Mutual recognition laws are in place throughout Australia. The intention is that differences between the regulatory environments of individual States or Territories are accepted by all jurisdictions and a national market for goods is created.

Not all jurisdictions have the same level of product safety standards. Where there is genuine concern about the possible adverse effects of continuing differences, mutual recognition is to encourage agreement on minimum essential regulatory requirements.

One scenario suggested as a consequence of mutual recognition is that manufacturers will relocate to a jurisdiction which has low or no product safety standards and then sell their goods throughout Australia, ignoring (quite legally if the goods are labelled with their State of origin) the higher mandatory standards which may prevail in other jurisdictions. If this were to happen the mandatory standards could become irrelevant.

To date there is little evidence to suggest that this scenario is occurring. NSW is a large market and manufacturers tend to comply with mandatory NSW safety standards even if they are not in place elsewhere. Nevertheless, the impact of mutual recognition must be considered when regulatory proposals are assessed.

### ***General Agreement on Tariffs and Trade (GATT)***

In general terms, GATT requires standards to be set consistently for imported and locally produced product; that is, importers should not have to do more than the local manufacturer. The clear intention of this requirement is to ensure that countries do not use the imposition of standards as a barrier to entry in the absence of tariffs. Hence, in the future, standards writers will have to take account of international standards when setting Australian standards. The Australian New Zealand Closer Economic Relations Trade Agreement (ANZ-CERTA) has for some time imposed restrictions on Australian jurisdictions prescribing standards which would burden New Zealand industry.

### ***Product Liability Law***

Product liability law compensates consumers who suffer loss or damage caused by a faulty product. The potential cost of compensation acts to some degree to deter traders from supplying unsafe products.

Compensation can be sought through an action in negligence, an action under contract, or an action under the manufacturers' liability or Product Liability provisions of the Trade Practices Act 1974.

Consumers face difficulties in exercising their rights under product liability law, not least of which is the cost of litigation.

## REGULATORY IMPACT STATEMENT

### 1. TITLE OF REGULATORY PROPOSAL

Fair Trading (Product Safety Standards) Regulation 1995.

### 2. NAME OF PROPONENT AND RESPONSIBLE MINISTER

The proposal has been developed by the Department of Consumer Affairs.

The responsible Minister is Hon Faye Lo Po' MP, Minister for Consumer Affairs.

### 3. OBJECTIVES OF REGULATORY PROPOSAL

#### *Fair Trading Act 1987*

- 3.1 The Fair Trading Act 1987 (FTA) was introduced to regulate the supply, advertising and description of goods and services. In repealing the previous Consumer Protection Act 1969, the change to FTA represented a refocussing of legislative objectives from consumer protection to that of creating a fair market place. The FTA recognises that both consumers and businesses have a legitimate interest in maintaining and promoting fair dealing practices and as such the FTA sets down the legislative framework for achieving this. The FTA is substantially uniform with the fair market place provisions contained in Part V of the Commonwealth Trade Practices Act
- 3.2 A major area in which the FTA regulates the supply of goods is the provision for introducing product safety standards, product information standards and the declaration of unsafe goods by the Minister in the form of banning orders. Standards and banning orders provide a mechanism through which consumers may be protected from unsafe or hazardous goods and through which information relevant to purchasing decisions on goods may be made available.
- 3.3 The FTA also provides for the establishment of a Products Safety Committee to assess products and advise the Minister:
- whether the supply of products which are dangerous, or are a possible source of danger, should be banned or restricted;
  - whether such products should be recalled; and
  - whether, during the course of investigation, it considers an interim banning order or restricting order is appropriate in the interests of public safety.



### ***Regulatory Powers Under the Fair Trading Act 1987***

- 3.4 Any regulation must comply with the powers specified for the making of regulations under the Act. Therefore, it is important to identify the regulatory powers granted by legislation, prior to introducing a regulation.
- 3.5 The general regulation making power is in Section 92 of the Act and states, inter alia, that the Governor may make regulations that are necessary or convenient to give effect to this Act.
- 3.6 Section 92 also provides that regulations may be made which may apply, adopt or incorporate, wholly or in part, and with or without modification, any standard, rule code or specification of the Standards Association of Australia, the British Standards Institution or any other association or body and may classify or describe anything by reference to a diagram, illustration or photograph.
- 3.7 Section 26 of the Act specifies that regulations may prescribe a product safety standard for a specified kind of goods.
- 3.8 A product safety standard for goods shall consist of such requirements as to:
- performance, composition, contents, methods of manufacture or processing, design, construction, finish or packaging of the goods;
  - the testing of the goods during, or after the completion of, manufacture or processing;
  - the form and content of markings, warnings or instructions to accompany the goods or to be placed on a vending machine for the goods or a display stand or sign adjacent to the goods; and
  - equipment or accessories to be supplied with the goods,
- as are reasonably necessary to prevent or reduce risk of injury to a person.
- 3.9 Section 27 prohibits supply of goods in trade or commerce which do not comply with the relevant product safety standard. The maximum penalty for breaching the safety regulation is \$20,000 for individuals and \$100,000 for companies. It also defines the situations where a person is deemed to have suffered loss or damage from a product supplied in contravention of a product safety standard.
- 3.10 Section 33 allows a person supplied with goods which contravene a product safety standard to recover from the supplier as a debt any money paid for the goods.

### ***Product Safety Regulation 1988***

- 3.11 The Product Safety Regulation 1988 was introduced to provide protection to the public from hazards associated with certain prescribed consumer products. At the

same time Parts 2-16, 18 and 19 of the Consumer Protection (Safer Goods) Regulation 1976 were repealed. The Product Safety Regulation replaced these with up-dated product safety standards in a new Regulation under the Fair Trading Act 1987.

- 3.12 Parts 7 - Swimming Pools: Outlets and 7A - Spas: Outlets were first gazetted on 23 September 1994 with a commencement date of 1 October 1994. It superseded an order in force under section 31 of the Fair Trading Act.

Part 22 - Cellulosic Fibre Thermal Insulation was first gazetted on 4 December 1992 with a commencement date of 4 December 1992. It superseded an order in force under section 31 of the Fair Trading Act.

Part 23 - Projectile Toys was first gazetted on 19 February 1993 with a commencement date of 1 April 1993. It replaced several specific orders under section 31 of the Fair Trading Act.

Part 24 - Baby Walkers was first gazetted on 22 July 1994 with a commencement date of 1 November 1994. It superseded an order in force under section 31 of the Fair Trading Act.

## SCHEDULE 16 - BABY WALKERS

### *Background to Proposal*

- 19.1 Baby walkers have been involved in a number of serious injuries to young children. Although available in many different designs baby walkers all consist of a frame mounted on wheels so that an infant can be supported and allowed independent mobility. They function by supporting an infant in a seated position while allowing it to propel itself with its feet.
- 19.2 Baby walkers were first introduced some 20 years ago and investigations into an injury report in 1976 resulted in the safety of these devices being referred to the Products Safety Committee (PSC) by the then Minister for Consumer Affairs. The committee found that most accidents with baby walkers resulted from their use rather than an inherently dangerous design and recommended cautionary labelling be adopted. Subsequently on 1 September 1978 an order was introduced restricting the supply of baby walkers unless the following warning label was affixed:
- "Caution: Babies can move freely in this product. Maintain careful supervision. Do not allow near fires, radiators or stairways."
- 19.3 Ten years later the Department received an injury report which indicated a hazard posed by the construction of the product. In this case the child sustained lacerations to her fingers when an adjustable height baby walker collapsed under her. Informal testing on the particular product involved indicated that it could not support a dynamically applied mass of more than 20kg.
- 19.4 Following this the then Minister for Business and Consumer Affairs on the 6 December 1988 referred to the PSC the question of the safety of scissor action collapsible baby walkers. The PSC report to the Minister established that the incident was an isolated "freak" accident and there was insufficient evidence to consider further restrictions on the supply of baby walkers at the time.
- 19.5 Figures released in 1992 by the Children's Hospital showed that about 30 children were treated every year at the hospital because of injuries related to baby walkers. It was alleged that baby walkers enable infants to propel themselves at high speeds which may result in them falling down stairs or overturning causing potentially fatal head injuries. In addition to these concerns support was given by local paediatricians to the American Medical Association's call to ban baby walkers. These issues resulted in the Minister referring the question of the safety of baby walkers once again to the PSC.
- 19.6 Further information on accident statistics was sought from the National Injury Surveillance Unit (NISU) which is administered by the Australian Institute of Health & Welfare. The injury data was obtained from approximately 50 participating hospitals. Their data showed that there were 155 incidents associated with baby walkers during the period July 1991 to June 1992. It must be borne in mind, however, that this

information may not be representative of all hospitals and it would be erroneous to extrapolate to try and estimate the total injury rate from baby walkers.

- 19.7 NISU data gave valuable information about the types and severity of injuries received from baby walker accidents. Nearly 60% resulted from falls down stairs or steps, 25% from other falls and 7.7% from contact with a hot substance or surface. Bruising, concussion and burns were the most common types of injuries recorded.
- 19.8 A survey of 39 retailers in the Sydney area in February 1993 revealed nearly 66% failed to comply with the NSW warning requirements. It was noted that major suppliers were not inspected in this survey and only retailers of the lower price range products were chosen. The market share of these retailers would most likely be small.
- 19.9 The PSC made a number of recommendations to the Minister and consequently the earlier order was revoked and replaced with the safety standard on 1 November 1994. This standard requires baby walkers to be affixed with the following label:

*"WARNING: Avoid injuries. Babies can move fast in this walker. Never leave baby unattended. Do not allow near steps, stairs, heaters, electrical cords or hot objects."*

As well instructional material and additional warnings in the form of an accompanying leaflet or swing tag are required.

### ***Objectives***

19.10 The objectives of the regulatory proposal are:

- to reduce the frequency of injury to young children from accidents associated with baby walkers; and
- to reduce the severity of injury often sustained in baby walker accidents.

### ***Impact of Regulation***

- 19.11 The regulation prohibits a person in trade or commerce from supplying goods intended to be used, or of a kind likely to be used, by a consumer unless the goods comply with the standard. The standard prescribes a warning label to be placed on the item and instructional material and additional warnings on an accompanying leaflet or swing tag.
- 19.12 Although there is scant statistical information available for this industry market analysis carried out by a large nursery supplier indicates the Australian market for baby walkers is in excess of 30,000 units per year. Given an average price of around \$40 each this puts the annual turnover figure at approximately \$1.2 million per year and probably approaching \$600,000 in NSW.
- 19.13 It has been estimated that in excess of 95% of baby walkers are imported, mostly from Taiwan and to a lesser extent China. Although the major suppliers distribute their product through Melbourne, all their products have been altered to comply with NSW

requirements even though under mutual recognition the companies could have avoided this.

- 19.14 Prior to introducing the safety standard NSW each year could expect about 100 baby walker related accident hospital reports. Since the safety standard only commenced in 1994, it is considered there has not yet been a sufficient time span to properly assess the effectiveness of the safety standard. This is especially so given the large number of baby walkers pre-dating the safety standard which are still in use by younger siblings or the children of other relatives and friends.

## **20. OPTIONS TO ACHIEVE OBJECTIVES**

- 20.1 This RIS specifies three options to achieve the stated objectives:

1. remake the current regulation;
2. allow to lapse;
3. vary the current regulation.

### ***Option 1 (The Preferred Option) - Remake the Current Regulation***

- 20.2 The proposed regulation will continue to prescribe specific safety warnings both affixed on the item and in accompanying leaflet form.
- 20.3 By remaking the current regulation, supply of baby walkers which do not comply with the product safety standard will continue to be a breach of the Fair Trading Act 1987. As a result the supplier could face prosecution and compulsory product recall of the goods. This is seen as a significant deterrent to less responsible businesses entering the market. On the more positive side it also provides reputable nursery suppliers with a clear determination as to appropriate warnings and instructions for baby walkers. By these means it clearly is the intention of this safety standard that consumers are adequately advised of the safety precautions needed with the use of these products. Consequently it is seen as minimising the risk of dangerous situations which may result in injury.
- 20.4 It is considered that the proposed regulation will best achieve the objectives. The proposed regulation is attached at Appendix 7.

### ***Option 2 - Allow to Lapse***

- 20.5 The second option is to allow the safety standard to lapse on 1 September 1995. The Minister for Consumer Affairs has the power to place an interim ban on any particular brand of baby walker under section 30 of the FTA and consider a recall order under section 34 of the FTA. In the case of baby walkers this ban may be conditional on the product displaying adequate warnings and instructions for safe use and a recall could

require the supplier to advise the public of the circumstances in which use of the baby walker is dangerous.

- 20.6 A major recent development has been the request by the Federal Minister for Consumer Affairs to all suppliers to cease marketing baby walkers. A number of major suppliers have at this stage decided not to continue selling baby walkers. This situation should be reviewed within the next year as the safety standard would become redundant if baby walkers went off the market.
- 20.7 In the meantime there is no specific industry association representing suppliers of baby nursery items which could encourage voluntary warning labelling of baby walkers still being sold.

*Option 3 - Vary the Current Regulation*

- 20.8 The only other State with requirements for baby walkers is the A.C.T., which introduced an almost identical product safety order on 28 November 1994. It is considered that the warnings and instructional material specified by the NSW and A.C.T. requirements are comprehensive and up to date and therefore do not need further modification at this time.
- 20.9 Another possibility is to introduce a design safety standard. At present Standards Australia does not have baby walkers on its work program. For the Department of Consumer Affairs to attempt to produce a mandatory safety design standard on its own is not considered justified for a number of reasons. First, there are currently no known mandatory standards anywhere else in the world and second, the PSC Inquiry did not resolve the issue of whether the dangers with baby walkers are posed solely by lack of supervision or because the products are inherently dangerous.
- 20.10 There have also been calls to ban the sale of the product. This has not been supported because of doubts about whether the product itself is dangerous, and uncertainty about the legality of banning orders under the relevant Commonwealth and State legislation.
- 20.11 In summary, the existing regulation was recently introduced following a formal inquiry by the PSC. The inquiry involved widespread industry consultation and the product safety standard that resulted is considered to be the most appropriate action for baby walkers at this time.

## 21. IMPACT ASSESSMENT OF PROPOSED STATUTORY RULE

Table 7

Category	Costs	Benefits
<b>Direct</b>		
<i>Tangible</i>	Administration/Enforcement Industry Compliance Increase in cost of product to consumer	Reduce costs to injured individuals
<i>Intangible</i>		Prevent injury/save lives
<b>Indirect</b>		
<i>Tangible</i>	Develop and promulgate standards	Reduce costs to community (medical, rehabilitation, etc.)
<i>Intangible</i>		Image of industry as responsible corporate citizens Increased feeling of community security Save legal costs

### Costs

- 21.1 Costs to the government for administration and enforcement are considered to be minimal. Less than \$1,000 per year would be a reasonable figure for carrying out routine monitoring and inspection
- 21.2 From 1978 until the safety standard was introduced in 1994 NSW had in place a banning order which required a caution label to be affixed to each baby walker. The safety standard has altered the wording of this label and introduced instructional material and additional warnings in the form of an accompanying leaflet or swing tag. The cost to industry for this change is estimated to be 35c to 40c per item. This amounts to between \$10,500 to \$12,000 per year.
- 21.3 To date this additional cost has not been transferred to the price the consumer pays but has been absorbed by the suppliers.
- 21.4 There are costs involved in developing and promulgating standards which are picked up in regulations. Government incurs costs associated with the reviewing, drafting and

making of regulations incorporating mandatory standards. As an indication, the cost to Consumer Affairs of repealing and remaking regulations in accordance with the Subordinate Legislation Act during 1994 was approximately \$3,000 per regulation.

### ***Benefits***

- 21.5 Statistics from the National Injury Surveillance Unit shows 155 injuries from baby walkers between July 1991 to June 1992 in reports from approximately 50 hospitals participating in data collection for NISU. Of these 59% were caused by falls down stairs, 25% by the walker tipping over on uneven surfaces and 8% by the baby moving the walker into a dangerous situation such as near a stove or heater. Of the injuries sustained about 80% were inflicted on the head and 8% of them involved fractures of the skull, which could cause brain damage or death. Approximately 21% of all accidents involved admission to a hospital and a further 15% received significant treatment at a hospital. As a subset of this the level of treatment for burns cases is significantly higher and 33% required admission to a hospital and nearly 50% required significant treatment at a hospital.
- 21.6 Given the above sampling figures from NISU it does not seem unreasonable to expect 100 baby walker related accidents each year in NSW. Of these one could expect approximately 21 children being admitted to hospital and a further 15 children receiving significant treatment at a hospital. Average costs incurred by the family of \$1,000 per child for hospitalisation and \$50 for outpatient treatment appear reasonable and this would provide a total cost of \$21,750 per year.
- 21.7 The benefit to the community in terms of reduced hospital and rehabilitation care would be expected to be much higher and a figure of \$30,000 per year seems reasonable. This is based on an average of 3 children per year staying in hospital for periods of 7 days and 18 other children staying in hospital for an average of 3 days for skull fractures and concussion. (The cost per hospital day is averaged at \$400 and so totals  $3 \times 7$  plus  $18 \times 3 = 75$  days  $\times$  \$400 = \$30,000)
- 21.8 Apart from avoiding medical and other costs associated with injuries associated with baby walkers, there is the benefit to families in being advised of safe usage of baby walkers. By showing that the child nursery industry will take measures to ensure the safe use of their products it enhances the image of the industry as responsible corporate citizens.
- 21.9 That such safety standards exist would also create in the community a belief that the level of safety is being properly addressed, leading to an increased level of awareness in purchasing and using these products.
- 21.10 Furthermore, a flow on from the safety standard preventing serious accidents has been a reduced need for legal services for accident compensation claims. Where injury can be attributable to a defective or dangerous product consumers have the right under product liability law to seek damages in court actions against the supplier of the product. Retaining the safety standard results in a reduction in court cases and therefore individual consumer and community costs for legal services.



## 22. IMPACT ASSESSMENT OF ALTERNATIVE OPTIONS TO ACHIEVE OBJECTIVES

### *Option 2*

#### *Costs*

- 22.1 There would be no cost to the Government attributable to the administration and enforcement of compliance with a mandatory standard. However, if further hazards were identified, the cost of introducing an interim ban, publicising a referral to the Product Safety Committee and introducing a banning order would be in the vicinity of \$10,000 for each case.
- 22.2 Without a mandatory standard the potential for hazardous situations to occur with the use of these products is increased. The cost of one such accident can vary enormously depending on whether the child suffers some level of brain damage as a result of a fall.
- 22.3 The annual cost to the community in terms of medical and rehabilitation services employed because of increased hazards is estimated at \$30,000.
- 22.4 Any further accidents would result in reduced confidence in the product.

#### *Benefits*

- 22.5 There is no specific nursery association covering baby walker suppliers to encourage the provision of warnings and instructional information so it is difficult to project what would happen if the safety standard was allowed to lapse. It could be expected that suppliers who stopped placing warning labels on their goods and providing the accompanying instruction leaflet would save some cost, however, it is of such minimal amount that the price of the item would most probably not change.
- 22.6 There would be no cost to the Government for including standards in regulations.

### *Option 3*

#### *Costs*

- 22.7 A significant variation in the standard would likely lead to an increase in costs to the industry and ultimately the consumer. This is because manufacturers and suppliers have geared their production of baby walkers to meet the current requirements.
- 22.8 Any changes in requirements would need to be notified to the industry and their implementation staged. Extra resources would be required. In the long term the costs associated with administration and enforcement by Consumer Affairs would be the similar to those under Option 1. In the short term it would incur the cost of developing a new standard and Regulation. Whatever the safety standard adopted Consumer Affairs will still need to keep abreast of design changes in the industry and

will need the resources to review the standard each 5 years and promulgate new safety standards.

***Benefits***

- 22.9 A standard which sought to reduce the frequency and severity of injuries to children more than Option 1 might be possible. However, at this stage it is considered that the possible benefit would not outweigh the costs.

### 23. OVERALL ASSESSMENT

Table 8

Category	Costs	Benefits
<p><i>Option 1 - the Preferred Option</i></p>	<p>Administration/ Enforcement \$1,000 pa</p> <p>Industry Compliance \$10,500 to \$12,000 pa</p> <p>Increase in cost of product to consumer has not occurred to date</p> <p>Develop and promulgate standards \$3,000</p>	<p>Reduce costs to injured individuals \$22,000 pa</p> <p>Prevent injury/ save lives - not quantifiable</p> <p>Reduce costs to community (medical, rehabilitation, etc.) \$30,000 pa</p> <p>Unable to be quantified:</p> <ul style="list-style-type: none"> <li>• Image of industry as responsible corporate citizen</li> <li>• Increased level of awareness of proper usage of product</li> <li>• Save legal costs</li> </ul>

Category	Costs	Benefits
<p><i>Option 2 - Allow to Lapse</i></p>	<p>Administration/ Enforcement \$10,000</p> <p>Families affected by injury \$20,000 pa</p> <p>Increased community costs (medical / rehabilitation) \$30,000 pa</p>	<p>No compliance costs to industry</p> <p>Possible lower product price</p> <p>No government cost in developing and promulgating standard.</p>
<p><i>Option 3 - Vary the Current Regulation</i></p>	<p>Possible increase in compliance costs for industry not estimated</p> <p>Administration/ Enforcement \$1,000 pa</p> <p>Possible increase in cost of product to consumer depending on variation chosen</p> <p>Develop and promulgate standards \$3,000</p>	<p>As for Option 1</p>

## **24. CONSULTATION**

The following organisations will be consulted on this Regulatory Impact Statement:

Australian Consumer Association

Australian Federation of Consumer Organisations

Chamber of Manufacturers of NSW

Insurance Council of Australia

Law Society of New South Wales

Retail Traders' Association of New South Wales

State Chamber of Commerce

The NSW Health Department

Child Accident Prevention Foundation of Australia

Child Safety Centre of the Children's Hospital

Swimming Pool and Spa Association of Australia Ltd.

Department of Local Government

Australian Cellulose Insulation Manufacturers Association

NSW Fire Brigades

Australian Toy Association

Britax Child-Care Products Pty. Ltd.

Target Australia Pty. Ltd.

IGC Trading Pty. Ltd.

Gro-Years Nursery Furniture

Childcare Nursery Products Pty. Ltd.

## SCHEDULE 16 - BABY WALKERS

### Definition

3. In this Schedule:

"**baby walker**" means a device that consists of a frame on wheels designed to support, inside the frame and with the child's feet touching the ground, a child who has not learned to walk, being a device that is propelled by the movement of the child.

### Safety standard

4. (1) The product safety standard prescribed for baby walkers is that:

(a) they have affixed to them a label bearing the following warning:  
WARNING: Avoid injuries. Baby can move fast in this walker. Never leave baby unattended. Do not allow near steps, stairs, heaters, electrical cords or hot objects.

(b) they are accompanied by legible written instructions and warnings in the English language that contain the matters referred to in subclause (3).

(2) The label referred to in subclause (1) (a):

(a) must be permanently affixed; and

(b) must bear the word "WARNING" in upper case red letters at least 5 millimetres high on a white background; and

(c) must bear the remaining words in upper or lower case letters at least 2.5 millimetres high; and

(d) must be conspicuously displayed.

(3) The matters referred to in subclause (1) (b) are the following:

(a) instructions on how the walker is to be assembled (if it is not fully assembled when sold) and the recommended position for use;

(b) instructions on how the walker is to be maintained and cleaned;

(c) instructions on how the walker is to be folded and unfolded (if it is capable of being folded);

(d) instructions on how to adjust the height of the walker (if the height is adjustable);

(e) instructions on how to secure the latching or locking mechanism of the walker (if it is equipped with a latching or locking mechanism);

(f) instructions on how to use the restraint system;

(g) instructions on the maximum and minimum weights and heights of children for whom the walker is designed;

(h) a warning that the walker should not be used by a child who can walk unaided;

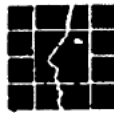
(i) a warning that the walker should not be used by a child who cannot sit unaided;

(j) a warning that a child should never be left unattended in the walker;

(k) a warning that doors to stairways should be closed and barriers should be in place across open stairways and steps while a child is using the walker;

(l) a warning that electrical cords and heaters, fireplaces and other hot objects, as well as any other objects or substances that may be dangerous, should be guarded or put out of reach of a child using the walker;

- (m) a warning that the walker should not be used (whether indoors or outdoors) on surfaces that have any obstructions that could cause the walker to tip over;
  - (n) a warning that the walker should never be carried with a child in it;
  - (o) a warning that both feet of a child who is in the walker should be able to touch the ground;
  - (p) a warning that the walker should not be used if it is damaged or broken;
  - (q) a warning (if the walker is capable of being adjusted) that the walker should never be adjusted with a child in it;
  - (r) a warning (if the walker is capable of being folded) that care must be taken while folding and unfolding the walker to prevent fingers being caught.
- (4) The instructions and warnings must be provided with the baby walker in the form of an accompanying leaflet or swing tag.
- (5) The instructions are to be accompanied by line drawings, photographs or symbols if those instructions are not by themselves sufficient to explain the steps required.



**NSW PRODUCTS SAFETY COMMITTEE**  
**A REPORT TO THE MINISTER FOR CONSUMER AFFAIRS**  
**ON THE SAFETY OF**  
**BABY WALKERS**

**1. REFERRAL**

- 1.1** On 11 December, 1992, the then Minister for Consumer Affairs referred to the Products Safety Committee the question as to whether the supply of baby walkers, by reason of their being dangerous, or being a possible source of danger, ought to be prohibited, or to be allowed only subject to conditions or restrictions; and whether baby walkers should be the subject of a recall order made under Division 3 of the Fair Trading Act 1987.
- 1.2** The referral followed concerns at statistics linking baby walkers with numerous injuries. It was alleged that baby walkers enable infants to propel themselves at high speeds which may result in them falling down stairs or overturning causing potentially fatal head injuries.

**2. PRODUCT DESCRIPTION**

- 2.1** Baby walkers are devices consisting of a frame and wheels, in which an infant can be supported and allowed independent mobility. They function by supporting an infant in a seated position while allowing it to propel itself with its feet.

**3. DISTRIBUTION OF GOODS WITH POTENTIAL HAZARD**

- 3.1** The distribution of baby walkers is widespread. They were introduced over fifteen years ago and information obtained from industry sources indicates that the total market for new baby walkers is in excess of 30,000 units per annum. Given the usable life of the products, the expected recirculation levels amongst families plus the second hand trade, there is likely to be well over twice as many units in use at any point in time.

**4. BACKGROUND**

Concerns regarding the safety of baby walkers were first brought to the Department's attention in 1976 by way of a report of injury. Subsequent investigations resulted in the question of baby walkers' safety being formally referred to the Products Safety Committee by the then Minister for Consumer Affairs.



After formal consideration the Committee unanimously agreed, at a meeting held on 8 November, 1977, to recommend that the Minister request the Standards Association of Australia to introduce a standard for baby walkers. It was further recommended that the supply of baby walkers not complying with such a standard should be prohibited.

The Minister accepted these recommendations and formally approached the Standards Association of Australia. A reply was received advising that the Consumer Standards Advisory Committee had considered this matter previously and was of the view that it was not necessary. The Advisory Committee did not consider the construction of the product caused injury but rather its misuse. There were also concerns that the setting of a construction and design standard could be taken to be an approval of a product that was alleged to be harmful to a child's development.

As a result of the reply from the Standards Association, the Products Safety Committee revised its previous recommendations. After re-assessment members agreed that most accidents with baby walkers resulted from their use rather than their construction. The Committee's ensuing report recommended that an Order be introduced requiring baby walkers to carry certain cautionary labelling.

On 1 September, 1978 an Order was introduced restricting the supply of baby walkers, unless a warning label was affixed reading:

**"CAUTION: BABIES CAN MOVE FREELY IN THIS PRODUCT.  
MAINTAIN CAREFUL SUPERVISION. DO NOT ALLOW NEAR  
FIRES, RADIATORS OR STAIRWAYS."**

In January 1979, the then Federal Department of Business and Consumer Affairs (BACA) approached the Department seeking comment on a proposal to introduce a federal regulation requiring baby walkers to carry certain cautionary labelling. BACA advised that the National Safety Council of Western Australia had recommended the introduction of an Australian Standard, however, the federal department considered that the problems resulted from misuse rather than faulty design or construction.

While the Department supported the introduction of a complementary ban it objected to the wording of the Commonwealth proposal. Ultimately the introduction of a regulation was not pursued by the Commonwealth.

In September 1988, the Department received a report that a child received lacerations to her fingers when an adjustable baby walker collapsed under her. Informal testing on the particular "Babyco" brand product indicated that it could not support a dynamically applied mass of more than 20kg.

As a result, on 6 December, 1988 the then NSW Minister for Business and Consumer Affairs referred the question of the safety of scissor action collapsible baby walkers, including the "Babyco" baby walker, to the Committee. At the same time an interim ban was placed on the "Babyco" product for a period of three months.

Submissions received generally accepted that there were concerns with the safety of baby walkers and that the availability of an Australian Standard should help eliminate these concerns.

In its report to the Minister, the Committee established that the incident that had generated concerns in respect of adjustable baby walkers was an isolated "freak" accident. As such the Committee found that there was insufficient evidence to consider restrictions on the supply of baby walkers at the time.

The Committee recommended that the supply of adjustable height baby walkers not be further restricted.

In late 1992, the Commonwealth/State Consumer Products Advisory Committee Working Party on Mutual Recognition endorsed a proposal to introduce a national standard for baby walkers. In this regard the current NSW labelling requirements were earmarked as the model.

Recently the previous Minister for Consumer Affairs was disturbed by figures released by the Children's Hospital showing that about 30 children were treated every year at the hospital because of injuries related to baby walkers. In addition to these concerns support was given by local pediatricians to the American Medical Association's call to ban baby walkers. These issues resulted in the Minister referring the question of the safety of baby walkers once again to the Committee.

The data compiled by the National Injury Surveillance Unit (administered by Australian Institute of Health & Welfare) on incidents associated with baby walkers, shows that there were 155 cases during the period July 1991 to June 1992 (see Annexure A).

## 5. SUBMISSIONS

On 19 December, 1992 an advertisement appeared in the *Sydney Morning Herald* seeking submissions to the inquiry from interested persons or organisations. The closing date for submissions was 15 January, 1993. Invitations to present submissions were also distributed directly to industry and other organisations that may have a general interest in the safety of baby walkers. Having regard to the difficulties experienced by various organisations over the Christmas period in meeting the specified deadline, the closing date for submissions was extended to 12 February, 1993.

### 5.1 A summary of written submissions received is as follows:

**5.1.1** Target Australia Pty Ltd believes that the banning of baby walkers is not justified. Mr Robert Wise of Target advised that Target had sold 24,015 baby walkers since July, 1989 without receiving any reports of accidents resulting from faulty or failing products. In support of its views, Mr Wise quoted statistics from the Victorian Injury Surveillance System which showed baby walkers/jumpers represented only 0.25% of accidents.

Target is of the view that a (voluntary) standard for baby walkers should be introduced to ensure an acceptable level of safety and quality is maintained. Additionally, Target maintains that increased education into use of baby walkers should be considered.

**5.1.2** The Child Safety Centre of the Children's Hospital Camperdown and the Child Accident Prevention Foundation of Australia (NSW

Division) presented a joint submission which called for the prohibition of the supply of baby walkers.

Based on injury statistics collated both locally and overseas they consider prohibiting the future supply of baby walkers is essential. They have some concerns about the feasibility and effectiveness of a recall program and as such, support an education program discouraging the use of existing baby walkers.

**5.1.3** Gro-Years Nursery Furniture claims to be a substantial importer and supplier of baby walkers. Mr John Joyce, Director of Gro-Years Nursery Furniture, supports the introduction of a (voluntary) standard for baby walkers. Mr Joyce indicated that as far as his company is concerned, any action taken regarding baby walkers other than the formulation of a standard would be unnecessary, unfair and very problematical.

**5.1.4** Britax Child Care Products Pty Ltd imports nursery furniture, including baby walkers, under the "Steelcraft" brand name. Mr Philip Coates of Britax puts forward the view that the baby walker itself is not an inherently dangerous product. Given the high level of consumer acceptance of the product, Britax does not believe that there is any community need, or evidence of unacceptable injury levels, to warrant banning and/or recall of baby walkers.

Britax would support moves to establish an Australian safety standard for baby walkers as has been done in other countries including the U.K.

In its submission Britax provided injury statistics from the Victorian Injury Surveillance System, which indicate that baby walkers represent only 0.23% of injuries to all children under 15 and only 1.38% of injuries to all children one and two years old. Britax suggested that the majority of these injuries related to a question of supervision or normal growing experiences.

**5.1.5** Childcare Nursery Products Pty Ltd does not consider that baby walkers fall within the category of a dangerous product and therefore does not support a supply prohibition. The company does, however, support the development of a (voluntary) standard to which industry can refer for guidance. The company is of the view that adult supervision is the greatest cause for concern.

**5.1.6** IGC Trading Pty Ltd has imported baby walkers for the past fifteen years. Mr Robert Berchik, Director, submitted that IGC Trading consider that banning the baby walker is a dramatised and over reaction which is totally unnecessary and would disappoint a large portion of consumers.

IGC Trading called on the Committee to recommend the introduction of an Australian Standard and suggest that such a standard should not force the product out of the price range of the majority of consumers.

IGC Trading forwarded a copy of a statement from the US Juvenile Products Manufacturers Association (JPMA). JPMA does not believe baby walkers should be banned and consider it vital that parents are educated in the product's safe use.

5.2 At its 134th meeting held on 23 February, 1993 the Committee heard personal submissions from four interested parties. A summary of these oral submissions is as follows:

5.2.1 Mr Philip Coates of Britax Child Care Products Pty Ltd indicated that to his knowledge in excess of 95% of baby walkers are imported from overseas with the majority coming from Taiwan and to a lesser extent China who are beginning to enter the baby walker market. The Taiwanese would be the major suppliers of baby walkers to both the USA and UK.

Although baby walkers produced in Taiwan generally meet the voluntary USA and UK standards, they are not mandatory and as such not all baby walkers exported to these countries meet the respective standards. The product exported to both the USA and UK is identical to that imported into Australia.

Mr Coates said that there are some models that are distributed world-wide that do meet the current British standard and some that don't. In respect to the models imported into Australia by his company, he expected that the top of the range model would comply with the standard whereas the basic model would not.

Mr Coates suggested that the problem with the British Standard is compliance to the stability requirements. These requirements call for a larger base on baby walkers which in turn results in increased costs.

Mr Coates advised that his company imports the product through Melbourne and that from there it is distributed throughout Australia. There are 4 to 8 weeks supply held in stores in the company's Melbourne warehouse and 4 weeks supply in transit by sea at any given time.

Mr Coates said Britax supply larger retail outlets such as Target, K Mart and Venture along with upwards of 600 independent nursery stores throughout Australia with baby walkers. Mr Coates said Myers/Grace Bros was the only large retailer not to stock baby walkers - assumed to be motivated by their perception of safety.

He said that Britax imports three specific models under the "Steelcraft" brand name ranging from a basic model through to a deluxe model. These models have remained basically the same for the past 5 years. Of the company's two major competitors, C.O White has one model in his range and IGC, (probably the largest importers of baby walkers) has three models in its range.

Mr Coates said that the range is distinguished in the marketplace by price and by features. There are two distinct types of walkers; those held up on struts and those which are cross framed. Some walkers are sold without accessories while others have clip on activity trays for the occupant. The other varying feature is the seats may differ in trim from a basic harness to a fully padded seat.

Mr Coates said that as far as his company was concerned, the sale of baby walkers represented less than 0.7% of its turnover, but in terms of volume it is a relatively high volume product. Mr Coates

indicated that the figures his company quoted in its submission are probably conservative and it is a product that fills out a nursery range as much as anything else - which is the major reason it is carried in his company's range.

Mr Coates informed the Committee that the mandatory labelling of baby walkers is carried out by the manufacturer and is common on every product distributed nationally.

Mr Coates said that baby walkers are designed for infants who can sit up but cannot yet walk (essentially the 6 month to 12 month age bracket). He suggested that baby walkers were his company's most least troublesome product and based on this knowledge and the substantial call for replacement parts, he expected the rate of re-use, from child to child, to be high. Mr Coates advised members that a recent survey in Canada concluded that the average age of baby walkers being used is 17 months.

Mr Coates advised that he understood that the baby walker is a product bought predominantly by family and friends as opposed to parents. He based this supposition on the premise that parents do not see the product as an essential item and as such normally suggest it to family and friends as a present. He said that studies in Canada established that only 20% of baby walkers were bought by parents.

Mr Coates said that while he was familiar with allegations of baby walkers causing developmental problems he was not in a position to comment as he had not seen any studies on the issue.

Mr Coates said that while his company had called for the introduction of an Australian standard for baby walkers, in its submission, it could see some merit in the introduction of a voluntary standard. He said the difficulty would not be with the larger importers but the "fly by night" importer bringing in a container load of non complying product and dumping it on the market, as has happened with prams and strollers.

Mr Coates said that although the introduction of a mandatory standard would increase costs to his company, it would not affect its portion of the market as competitors would also have to comply. He said that costs to the consumer would obviously slightly increase but he did not expect this to affect demand.

Mr Coates said that he was of the view that warnings were particularly effective to expectant mothers during the latter stages of pregnancy who are constantly in pursuit of information that will assist in the raising of their child.

Mr Coates said that the quality of baby walkers was consistently high throughout the industry and he was of the view that the introduction of a standard would be beneficial in ensuring the stability of the product. He said that generally all baby walkers are moulded from the same companies in Taiwan and the trimmings distinguish the brands.

Mr Coates advised that his company is conscious of the need to remain aware of product issues and receives approximately 250 complaints a year of which last year one related to baby walkers.

Mr Coates concluded that his company did not have a vested interest in the long term future of baby walkers as it only represents a very small proportion of its total product sales. He said the purpose of the company's submission was to ensure that all the facts were clear and understood. He said that baby walkers did not cause them any difficulties and his company is of the view that injury statistics involving baby walkers is a very minor problem as opposed to total child injuries.

**5.2.2 Ms Michelle Southby of the Child Safety Centre and Ms Teresa Burgess NSW Early Childhood Injury Prevention Program Co-ordinator of the Child Accident Prevention Foundation of Australia spoke jointly to their submission.**

Ms Southby indicated that the 76 baby walker related injuries in their submission had been registered between January 1990 to June 1992. The statistics are based on reports of injuries received by 12 participating hospitals throughout NSW. These hospitals include Westmead, Prince of Wales Children's Hospital, The Children's Hospital, Camperdown and hospitals in the Illawarra and Hunter area. Ms Southby also provided a breakdown of baby walker injuries (see Annexure B).

Ms Southby pointed out the limitations of the statistics in that they attribute the major proportion of injuries relating to falls down stairs, yet, there is no way to establish how many stairs were involved.

Ms Southby indicated that while the introduction of a standard along the lines of the British Standard may help reduce the hazards associated with baby walkers, it wouldn't address the major concern with children falling down stairs. Ms Southby also expressed concern that the introduction of a standard would not eliminate the problem with baby walkers currently in circulation and being passed down from one sibling to the next.

Ms Burgess pointed out that a standard would not eliminate the problem of scalds and burns occurring as a result of the increased mobility of the child in the baby walker.

Ms Southby indicated that as far as an education program is concerned it tends to be expensive and not very cost effective. Ms Burgess said that such programs often did not target certain ethnic groups.

Ms Burgess said that there are overseas papers which document the harmful effects of baby walkers to infants with neurological deficits. Ms Burgess indicated that Dr Ouvrier from the Children's Hospital claims there is no sound evidence that baby walkers are of benefit to any identifiable patient group and maintains there is evidence to suggest that baby walkers contribute to faulty development in children suffering cerebral palsy.

Ms Southby said that while she was not aware of the Australian Medical Association having a view on the issue she was aware that the American Medical Association has come out strongly in support of the prohibition of baby walkers.

Ms Southby pointed out the introduction of a standard in Canada had eliminated the production of baby walkers in that country. The standard calls for bases to be a minimum of 1 metre of width so they don't fit through a standard door-frame, increased friction on the wheels to keep the baby walker speed down to a safe level and tipping requirements.

Ms Southby pointed out that the typical injury related to baby walkers is to the head. In statistics collated by the child safety centre 85% of injuries are to the head and face area. Fortunately, only 8% of these resulted in fractures to the skull and 10% concussion. Ms Southby suggested, however, that this represented a higher proportion of skull fractures than would be expected from a normal fall without a baby walker. Ms Southby is not aware of any deaths attributed to baby walkers.

Ms Southby said that views expressed by parents as to why they used baby walkers was because they felt that children enjoy them, that they are a baby sitter for the child, they think that they provide good exercise for the child and they have a strong belief that they help the child walk earlier.

Ms Burgess suggested that efforts to discourage parents from using baby walkers were very difficult because usually they have been using the product for some time and have found them to be useful baby sitter which often stops the baby crying.

Ms Southby said that although the evidence they have may be incomplete, the total prohibition of baby walkers should be considered. She acknowledged that further research was needed before such action could be taken.

Ms Southby said that she questioned the value of mandatory labelling requirements as people usually do not read labels and there are certain groups which would derive little benefit at all, such as non English speaking groups.

Ms Southby could not provide details on how long children are kept in baby walkers. She explained that overseas research had suggested the likelihood of injury increased the longer the baby walker was used.

Ms Southby said that most parents demonstrate an acceptable level of supervision. However, because of the added mobility with baby walkers reaction time of parents is a lot less. If a baby in a walker is left unattended, even momentarily, things can happen quickly that are unavoidable.

Ms Southby concluded that evidence supported the view that baby walkers are dangerous and cause injury. Views obtained from a number of sources within the medical profession would support the prohibition of baby walkers or some type of restriction. Ms Southby suggested that an education program may help the

problem but considered that the enforcement of some form of standard would be more cost effective.

- 5.3.3** Mr John Joyce, Director of Gro-Years Nursery Furniture, explained that his company imported one economy model baby walkers from Taiwan and has done so since the early 70's. Mr Joyce advised that 50% of his business is made up of imports, of which 20% are baby walkers. The baby walkers are imported by sea to Sydney and from there they are distributed throughout Australia. He said that all units arrive in Sydney with the appropriate warnings having been affixed by the manufacturer. The baby walkers retail for approximately \$49.

Mr Joyce advised that the current baby walker his company distributes was developed by the manufacturer in the early 70's. He is not aware if it meets the requirements of the voluntary British Standard. Mr Joyce indicated that he considered that the manufacturer would be able to accommodate any requirements placed on baby walkers should it be necessary.

Mr Joyce said that since the early 70's the demand for baby walkers had increased slightly. Mr Joyce advised that the only problem he had experienced with baby walkers was during the early years of importing when difficulties were experienced with the crutch strap and height of the product. Mr Joyce is of the view that the introduction of a standard would eliminate the availability of products that may have poor crutch straps or unsuitable height.

Mr Joyce indicated that if a standard was introduced he would ensure that the product his company imported was modified to comply with it. Mr Joyce said that his company would be adversely affected by the banning of baby walkers as they represent a large proportion of the company's business.

Mr Joyce advised that his company was aware of the importance of education of mothers and would actively support such an initiative.

Mr Joyce in conclusion raised concern with the use of statistics to isolate baby walkers as being dangerous when other products such as bicycles, swing sets and cots are responsible for many more incidents.

Mr Joyce said that in respect of the concerns raised in relation to developmental problems he was not convinced that this was the case and suggested that an education program highlighting the milestones of development may be worth consideration by the Committee.

## **6. MUTUAL RECOGNITION**

- 6.1** NSW is the only authority in Australia to currently restrict the supply of baby walkers in any way. The majority of baby walkers available in NSW are distributed from other States, in particular, Victoria. With full implementation of mutual recognition, baby walkers imported into NSW from other States and Territories will not have to comply with any NSW legal restrictions on supply (including labelling requirements).



**6.2** In light of this situation, invitations to present submissions and provide comment were distributed directly to all CSCPAC members.

**6.3** Submissions were received from three authorities:

**6.3.1** The Federal Bureau of Consumer Affairs intends to adopt the current Order in force in NSW as a national standard and considers this to be the most appropriate action. The Bureau does not believe there is sufficient evidence to warrant the total prohibition of baby walkers. In support of this view the Bureau suggested that a very large proportion of the community in general would be against such a prohibition and that in assessing the product there was no positive indication that the product could be linked to problems in a child's development. The Bureau suggested that lack of supervision appeared to be the most contributing factor to injuries.

The Bureau intends to develop and implement an education program in conjunction with the introduction of complementary laws and also intends to implement an extensive compliance program. The Bureau considers that any difficulties NSW may have with compliance to the existing Order will be virtually eliminated with its adoption nationally under the Trade Practices Act.

The Federal Minister for Consumer Affairs has subsequently announced an inquiry into baby walkers and gazetted a warning notice under s.65B of the *Trade Practices Act* (see Annexure C). Commonwealth authorities have intimated that any action taken will be influenced by NSW initiatives.

**6.3.2** The Queensland Department of Consumer Affairs intends to take up the current Order in line with the Federal Bureau of Consumer Affairs' proposed action. Although its Minister has warned consumers generally about the dangers of baby walkers (see Annexure D), Queensland Consumer Affairs believes the problem associated with baby walkers is one of lack of supervision and as such does not believe they should be banned.

The Queensland Department of Consumer Affairs has produced a brochure warning users of the dangers of baby walkers (see Annexure E).

**6.3.3** The Ministry of Consumer Affairs, Western Australia, shares the concerns expressed by NSW. While it has no firm views on the issue at this stage, it is eager to know the outcome of the inquiry and intends to introduce complementary restrictions, if appropriate.

## **7. CONSIDERATION BY THE COMMITTEE**

**7.1** The Committee considered a Hazard Assessment Paper at its 134th meeting held on 23 February, 1993.

**7.2** At this meeting the Committee also heard oral evidence from witnesses and reviewed a report of a Departmental marketplace survey of compliance with the current labelling order (see Annexure F). This showed inadequate compliance at the lower end of the market.

**7.3** At its 135th meeting held on 19 April, 1993 the Committee considered a paper prepared by Dr Victor Carey (member of the Committee and

medical expert in child injury). This paper provided a breakdown of injury statistics along with a review of available medical literature (see Annexure G). After this meeting an interim progress report was provided to the Minister.

- 7.4 At its 136th meeting held on 7 June, 1993 the Committee considered statistics gathered by the Australian Bureau of Statistics (ABS). The Victorian branch of ABS conducted a survey into safety in the home in which details regarding baby walkers were gathered and published in a booklet titled "Safety in the Home" in April, 1993 (see Annexure H).

#### **Product Safety Standard and Testing:**

- 7.5 In the absence of an appropriate Australian Standard it is difficult to carry out a safety assessment on baby walkers. Apart from basic tests attempted during the previous inquiry into adjustable baby walkers, no tests have been developed or carried out.
- 7.6 The Committee did not resolve the issue of whether the dangers with baby walkers are posed solely by lack of supervision or that the products are inherently dangerous. Given the differences in opinions expressed to the inquiry, the Committee believed that debate in this regard would be unproductive.

#### **Overseas Experience**

- 7.7 There are currently no known mandatory standards anywhere else in the world. Canada, the US, China and Britain are the only countries known to have standards for baby walkers.

Despite approaches directly to the American Medical Association (AMA), no information has been forthcoming in relation to its calls for bans on the supply of baby walkers. It is known, however, that the AMA's calls follow the release of statistics which show that six baby walker deaths have been reported in the US in recent years.

During the inquiry, the US Consumer Products Safety Commission advised that it is investigating the safety of baby walkers, however, at that stage the focus of the inquiry had not been determined.

The New Zealand Ministry of Consumer Affairs recently held an inquiry into the safety of baby walkers. In a report to its Minister it concluded that accidents involving baby walkers are mostly the result of inadequate parental supervision, while others are caused by poor design of the walkers involved.

The Ministry recommended the establishment of a voluntary industry standard coupled with an education program targeted at parents.

Standards New Zealand are currently seeking funding to introduce a standard for baby walkers, modelled along the lines of the British standard. Standards Australia intend to introduce a joint standard with New Zealand should they be successful in producing a Standard.

*SNZ. 1988 ← have a standard.*

*BS 1970 ← lost one in Standards Assoc. record.*

*SA → do not have a standard in their work program.*

## **8. ATTITUDE OF SUPPLIERS**

- 8.1** Suppliers have generally been amenable to suggestions of restrictions by way of labelling requirements or mandatory construction standards and support the development of an Australian Standard.
- 8.2** There has been mixed reactions to suggestions of a total ban on baby walkers. Suppliers who deal in infant nursery in which baby walkers form part of their line are generally indifferent about the prospect of such action, while those who specialise in their supply are opposed to a total ban.

## **9. FINDINGS**

- 9.1** Members could not find any evidence to suggest that baby walkers resulted in developmental problems in infants.
- 9.2** Baby walkers are associated with a significant number of injuries to infants.
- 9.3** Members did not consider the current warning was forceful enough and were concerned at the current low level of compliance with the order.
- 9.4** Members generally agreed that available statistics did not provide conclusive evidence to indicate whether children using baby walkers have more or less accidents than those who don't. Members agreed, however, that walkers enabled children to reach higher to access dangerous objects at a much earlier age than normal.
- 9.5** Members agreed that the data received from the Australian Bureau of Statistics did not assist in singling baby walkers out as a high risk product.
- 9.6** There is a need to raise the public's awareness to the hazards of baby walkers and mandatory labelling requirements are not enough.

## **10. CONCLUSIONS**

- 10.1** Members agreed that some positive strategies were needed to help reduce the incidence of injuries linked to the use of baby walkers and in particular injuries from falls down stairs and access to hot appliances such as heaters, irons and kettles.
- 10.2** Members agreed that updated labelling requirements along with a extensive education and compliance program by Consumer Affairs would be the most appropriate course of action in the short term. In this regard it was acknowledged that non English speaking members of the community needed targeting.
- 10.3** Members agreed that the Minister should be urged to strongly discourage the use of baby walkers and that Consumer Affairs should vigilantly monitor any changes in baby walker injuries.
- 10.4** Members agreed that a time frame to the end of 1994 should be placed on the program at which time the Department should review its effectiveness. At this time, the matter should be again referred to the Products Safety Committee to examine stronger action. Consideration

should be given to banning the product should initiatives prove ineffective in reducing the incidence of injury.

- 10.5 During the education and monitoring period, suppliers should be advised of the concerns over the level of injuries and urged to develop improvements in baby walker design.
- 10.6 Members agreed that approaches should be made to the Minister for Health advising of the results of the inquiry and seeking assistance in maintaining a reliable data base of baby walker injuries during the period of review.
- 10.7 Members agreed that approaches should be made to Standards Australia supporting the development of a standard for baby walkers, however, it would be inappropriate to seek any priority in its development.
- 10.8 Members agreed that as far as labelling is concerned the requirement of a swing tag and/or accompanying leaflet should be considered and the wording of the current Order for a permanent label be revised to better highlight the hazards.
- 10.9 It was agreed that the word "Caution" should be replaced with the word "Warning" and the problem with stairs and electrical appliances such as heaters, irons and kettles identified.
- 10.10 In this regard it was agreed that a draft warning statement should be prepared by the Department and distributed to members for comment, as quickly as possible.
- 10.11 Members agreed that the brochure "Kidsafe Furniture" produced by the Child Accident Prevention Foundation of Australia will be an important strategy in bringing baby walker dangers to attention and is within keeping with the findings of the Committee.
- 10.12 Members agreed that it would be appropriate to make copies of the Committee's report available to other SCOCAM Ministers, urging uniform national action.
- 10.13 The Committee agreed that recall action is not justified.
- 10.14 Members agreed that the issue of baby walkers should be brought up with CSCPAC.

## 11. RECOMMENDATIONS

- 11.1 The Committee recommends that the Minister for Consumer Affairs should continue to restrict the supply of baby walkers subject to the revised warning label being introduced (see Annexure J). This should be done by way of regulation under the *Fair Trading Act* with the consequential revocation of the conditional banning Order.
- 11.2 The Committee recommends that in addition to the warning label, baby walkers should be required by regulation under the *Fair Trading Act* to bear a swing tag or be accompanied with a leaflet explaining the dangers of baby walkers (see Annexure J). Consumer Affairs should ensure that traders comply fully with the law.
- 11.3 The Committee recommends that the Minister should approach Standards Australia to support the development of an Australian Standard for baby walkers.
- 11.4 The Committee recommends that the Minister should be urged to *issue advice / warning* ~~strongly discourage the use of baby walkers~~. In this regard the Committee made the observation that the Minister's launch of the "Kidsafe Furniture" on 5 July, 1993 is timely and would be an appropriate forum to announce the outcome of the inquiry.
- 11.5 The Committee recommends that the effectiveness of the proposed action (if approved) should be reviewed at the end of 1994.
- 11.6 The Committee recommends that the Minister should formally approach her colleague, the Minister for Health, advising of the results of the inquiry and seeking his Department's assistance in maintaining a reliable data base of baby walker injuries during the period of review.
- 11.7 The Committee recommends that the Minister should not require a recall of baby walkers.
- 11.8 The Committee recommends that should the Minister accept the recommendations, a copy of the Products Safety Committee's report should be distributed to all SCOCAM Ministers, urging uniform national action.
- 11.9 A list of members who agreed to these recommendations is below.

Mr D. I. Catt (Chairman)  
Mr R. Laughton (Executive Officer)  
Dr V. Carey  
Mr N. Crothers  
Mr J. G. Hughes  
Mr A. Lawson  
Mr B. Malone

*D. I. Catt*  
D. I. CATT  
Chairman

21/6/93

APPENDIX 4

FEDERAL BUREAU OF CONSUMER AFFAIRS

**DISCUSSION PAPER - TRADE PRACTICES ACT  
1974: DIVISION 1A OF PART V: CONSUMER  
PRODUCT SAFETY: NEED FOR MANDATORY  
ACTION: BABY WALKERS**

August 1993

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## PURPOSE

This paper examines available data on injuries to infants associated with baby walkers and discusses the options available, including legislative options, to reduce the incidence of these injuries.

## POWERS OF THE MINISTER FOR CONSUMER AFFAIRS

2. The Federal Minister for Consumer Affairs has a number of powers relating to the safety of products and/or the type of information provided to the consumer about them under Division 1A of Part V of the *Trade Practices Act 1974* (the Act).
3. Sections 65C and 65D of the Act provide that consumer product safety standards or information standards respectively may be prescribed by regulation. Under s. 65E of the Act, the Minister may declare product safety standards or product information standards by notice in the *Commonwealth Gazette*. These regulations may be a complete standard or part of a standard prepared by the Standards Association of Australia or another similar approved body (although thus far, no rival to Standards Australia has been prescribed under the Act).
4. A product safety standard may relate to any or all of the following:
  - . the performance, composition, contents, methods of manufacture or processing, design, construction, finish, or packaging of the goods;
  - . testing of the goods during, or after the completion of, manufacture or processing; and
  - . the form and content of markings, warnings or instructions to accompany the goods.

The function of consumer product safety standards is stated at s. 65C(2) of the Act as being requirements "... as are reasonably necessary to prevent or reduce risk of injury to any person."

5. A product information standard may require any or all of the following:
  - . the disclosure of information relating to the performance, composition, contents, methods of manufacture or processing, design, construction, finish, or packaging of the goods; and
  - . the form and manner in which that information is to be disclosed on or with the goods.

The function of consumer information standards is stated at s. 65D(2) of the Act as being requirements "... as are reasonably necessary to give persons using the goods information as to the quantity, quality, nature or value of the goods."

6. Other substantial powers are available to the Minister under the Act. S/he may under s. 65B publish in the *Gazette* a warning notice to the public advising that specified goods are under investigation to establish whether they will or may cause



injury to any person. Such a warning may also alert the public to the alleged injury risks (although these are described as “possible” injury risks in the Act).

7. Under s. 65C(5), the Minister may ban as unsafe, goods which it appears to the Minister will or may cause injury to any person, by means of a notice in the *Gazette*. Such bans remain in force for 18 months after which time the Minister has discretion to renew the ban on a permanent basis under s. 65C(7), by means of a further notice in the *Gazette*, if no consumer product safety standard has been made for that class of goods. The Minister has further discretion to revoke unsafe goods bans at any time. Under s. 65J of the Act, where the Minister proposes to publish a notice under s. 65C(5) or (7) in relation to particular goods, suppliers of those goods must first be allowed an opportunity for a conference before the Trade Practices Commission (TPC) to argue against the proposed ban. At this conference, any other person whose presence is considered by the TPC to be appropriate is entitled to be present or to be represented eg, persons who can lend support to the ban.

8. The Minister also possesses the power, under s. 65F of the Act, to require a corporation to recall goods which it is considered will or may cause injury to any person, or are in breach of a consumer product safety standard, or are goods subject to a notice made under s. 65C(5) and s. 65C(7) of the Act, if it appears the supplier has not taken satisfactory action to prevent the goods causing injury to any person. In so doing, the Minister may also require the supplying corporation to disclose the characteristics of the goods that make them likely to cause injury, the circumstances in which use of the goods is dangerous, and procedures for disposing of the specified goods, in a manner s/he prescribes. A supplier may be further required to replace the goods or provide refunds to consumers who purchased them within a specified period. As in the case of the Minister’s power to ban under s. 65C(5) and (7), under s. 65J of the Act, suppliers of the goods being recalled must first be allowed an opportunity for a conference before the TPC to argue against the proposed recall (unless it appears to the Minister that the goods create an imminent risk of death, serious illness or serious injury).

## **COSTS AND BENEFITS OF INTERVENTION BY THE MINISTER**

9. Whilst it is clear that the use of the powers available to the Minister under Division 1A of Part V of the Act may bring direct benefits to the community in the form of useful information about the products available for purchase, a general improvement in the quality of certain classes of products, the removal of demonstrably dangerous products from the marketplace, and the reduction of avoidable injuries (and thus also of costs to the community of medical treatment, hospitalisation, material damage, and lost productivity), it is equally apparent that such intervention has accompanying costs. These costs, which may be significant, must be adequately balanced against the apparent benefits of regulation prior to any final decision being made to advise the Minister to intervene. Some of these costs include, for example: the administrative costs involved in undertaking a recall, making mandatory standards, implementing a ban, etc; the costs of complying with new regulation; and the costs of enforcing new regulation. Any other related costs to the Minister’s intervention such as those associated with mounting public awareness/education campaigns or the creation of barriers to trade must also be

borne in mind when assessing what the appropriate action should be. Suppliers also incur costs in relation to meeting standard requirements or loss of trade and custom if supply of a product is banned.

## **CLOSER ECONOMIC RELATIONS WITH NEW ZEALAND**

10. Australia and New Zealand have agreed under the Australia and New Zealand Closer Economic Relations Trade Agreement (ANZCERTA) treaty to harmonise, as far as possible, consumer protection regulations to prevent barriers to trade between the two countries. This means that Australia and New Zealand will seek to make compatible product safety and consumer information regulations and, where this is not possible, will recognise each other's regulations.

11. New Zealand is currently in the process of establishing a voluntary industry standard on the safety requirements for baby walkers based on the British standard BS 4648:1989. The British standard, which was published by the British Standards Institution in 1989, includes a number of tests for checking the stability of baby walkers, as well as laying down requirements for other aspects of safe design, such as the toxicity of paints and coatings and the elimination of sharp edges. New Zealand is also proposing to conduct a baby walker education campaign targeted at parents to help reduce accidents involving the use of baby walkers.

## **BACKGROUND**

12. Baby walkers are devices consisting of a frame and wheels, in which a baby can be supported and allowed independent mobility. They function by supporting a baby in a seated position while allowing it to propel itself with its feet. They are designed for babies who can sit up but cannot yet walk ie, essentially the 6 month to 12 month age bracket.

13. Baby walkers are a popular consumer item in Australia and overseas which appear to provide considerable enjoyment for a baby placed in it because of the freedom of movement they allow to the baby. They have been in use in the western world for several centuries, but only within the last two decades or so have they come to be a common household item. Walkers are convenient and liked by parents as they provide a place where a baby is kept occupied, quiet and happy as the parents attend to other demands. Many parents also use baby walkers to stimulate walking in babies. Baby walkers are durable products with a long life expectancy. They are often re-used by parents for later children or given to others. Baby walkers sell from a retail price of around \$35 to around \$75.

14. Accidents and injuries to babies associated with the use of baby walkers are common. From time to time, reports appear in the media about accidents involving babies in walkers. On 28 May 1993, for example, the Channel 9 news in Sydney carried a lengthy news item concerning the risks of using a walker, with several cases highlighting the possible accidents and resultant serious injuries being shown. One unfortunate case involved a baby suffering severe burns from pulling down a hot iron and having it wedge itself onto the baby's face. The news item reported that

120 accidents involving baby walkers occurred in Australian cities in 1992 and that child safety experts have urged an immediate ban on baby walkers.

15. The safety and other related issues of baby walkers, such as the effect they may have on early infant development, have been under examination overseas (eg, the USA, UK and Canada) for many years. In Australia, these issues have also been under review and on the agenda of the Commonwealth/State Consumer Products Advisory Committee (CSCPAC) for many years. Recent investigations by CSCPAC members into the safety of baby walkers include those undertaken respectively by the NSW, ACT, and New Zealand governments. Regulatory action in Australia on the safety of baby walkers has thus far been limited to a NSW Department of Business and Consumer Affairs regulation which was introduced in 1978. The regulation requires suppliers of baby walkers within NSW to include a consumer warning on the walker which essentially relates to the supervision of babies in a walker and the possible hazards. CSCPAC has agreed under the principles of Mutual Recognition that the NSW regulation should be considered for adoption under the Trade Practices Act.

## INJURIES

16. The Federal Bureau of Consumer Affairs has obtained accident and injury statistics from the database of the Australian National Injury Surveillance Unit (NISU) for the period 1986-1992. The statistics show that there were 609 recorded incidents involving injury in that period which involved baby walkers - a significant figure considering that only a small number of Australian hospitals supply NISU with injury data. 61% of these injuries were caused by falls down steps, stairs, etc, 23% were caused by the walker tipping over, and 9% were caused by the walker being moved to a position which allowed the baby to access a hazardous object (for example, a pot on a stove or a heater). 45% of the children required some sort of medical treatment, 30% required no treatment, 17% required either short stay ward observation or were admitted as inpatients at a contributing hospital, 7% were casualty review patients, and 1% were transferred. No deaths were recorded in the incidents. 91% of these incidents involved a child aged 12 months or less.

17. The Bureau also obtained injury data from the Children's Hospital in Camperdown, NSW. This data indicated that: Childsafe NSW (a collaborative child injury surveillance system) identified 76 walker related injuries to June 1992; at the Children's Hospital, Camperdown, approximately 30 cases of injuries caused by baby walkers are seen each year; 96% of injuries occurred to children under 1 year of age; 63% of injuries occurred in the living area of the child's own home; 72% of the injuries were caused by a fall down stairs; the remaining 28% were caused by a fall (tip over) on the same level; 85% of all injuries were to the head; 8% were fractures of the skull and 10% were concussion.

18. Further evidence on the hazards of baby walkers comes from overseas experience. It was estimated, for example, that 23,900 walker injuries requiring treatment were sustained in the USA in 1980 alone. Injury patterns described overseas have included skull fractures, closed head injuries, dental injuries, abrasions, lacerations, haematomas, severe burns, arm fractures, finger entrapments

and poisonings. Because the trunk, abdomen, and lower limbs are protected by the frame of the walker, it is the uppermost body parts such as the arms and head which are exposed and vulnerable in the most common form of accident, a fall down stairs or steps. The Bureau is aware that several deaths have occurred overseas as a result of accidents in baby walkers.

19. The Bureau notes that the above injury statistics and the various studies into baby walker accidents (eg, "Patterns of Walker Use and Walker Injury" by Rieder, Schwartz and Newman, 1986) show that the three main causes of accidents to babies in walkers are: falls down stairs, steps, etc; the walker tipping over; and the walker being moved to a position such that the baby can reach a hazardous object. Falls down steps, etc, can only occur if the baby has access to them, either if they are not properly guarded or if the baby is not being adequately supervised while in the walker. Accidents caused by babies pulling over saucepans, contacting other hot surfaces or accessing poisonous substances occur for similar reasons. If the walker is top heavy or has other design faults, a stationary walker can tip when the baby leans over to pick up a toy, and a moving walker can tip when it hits an object on the floor, the edge of a carpet, or other irregularity.

#### OTHER CONCERNS

20. There have also been some concerns expressed in Australia and overseas that baby walkers do not assist the physical development of a child, and can inhibit the physical development of a child. The Bureau understands, however, that these views are not held universally by child experts and are a matter of differing opinions. The Bureau has examined some of the studies (eg, "Influence of an Infant Walker on Onset and Quality of Walking Pattern of Locomotion: An Electromyographic Investigation" by Kauffman and Ridenour, 1977) that have been done overseas on this subject. The evidence from these studies seems to generally suggest that the use of baby walkers may lead to some developmental delay in the attainment by some children of milestones such as balance, sitting, crawling, walking, etc; and to "bad habits" such as encouraging infants to walk on their toes, particularly if used for long/excessive periods. This situation appears to be only temporary, however, as walker trained infants tend to adjust their movements fairly quickly to resemble those of infants which have not been placed in a walker once they are no longer placed in a walker. The seriousness of an infant (possibly) commencing unassisted walking two weeks later than another, for example, because the former had spent time in a walker while the latter had not, does not seem comparable to the real safety problem which is the many accidents and injuries occurring to babies in walkers.

#### STABILITY TESTS PERFORMED ON BABY WALKERS

21. The Bureau recently purchased a range of 11 baby walkers from a variety of stores in Sydney and Melbourne and had them tested at the testing facilities of Technisearch Limited in Melbourne for their static and moving stability. The 11 walkers consisted of 4 circular framed walkers and 7 rectangular framed walkers. All but one of these walkers ran on 6 castors. The walkers were tested in accordance with the stability tests laid down in Appendices E and F (copy attached) of the

British safety standard for baby walkers, BS 4648:1989. Clauses 5 and 6 on page 3 (copy also attached) of the British standard require that when tested in accordance with Appendices E and F the baby walker shall not overturn.

22. The results of the stability testing of the 11 walkers were as follows:

- 6 out of the 11 walkers (55%) failed the static stability test (Appendix E) ie, they toppled over, with one of these walkers failing 4 times and another failing twice. All 11 though passed that part of Appendix E involving an additional stability test performed on the walker tray; and
- None of the 11 walkers failed the moving stability test (Appendix F) - 3 walkers, however, had their frame broken during the course of the moving stability test. These 3 had also failed the static stability test.

23. Technisearch Limited has advised the Bureau that, in its opinion, the stability tests it carried out on the baby walkers were reasonable tests in terms of their toughness and suitability for the product involved.

#### OPTIONS FOR INJURY REDUCTION FOR BABIES IN WALKERS

24. Injury data indicates there may be scope for taking appropriate action to prevent or reduce the high risk of injury to babies apparently posed by baby walkers. The options for action to reduce the number of injuries to babies in walkers include:

- A ban on the supply of baby walkers by declaring them unsafe goods under s. 65C(5) of the Trade Practices Act:
  - A generic ban on all baby walkers; or
  - A specific ban on baby walkers which are unstable; or
  - A specific ban on baby walkers which are unstable plus a mandatory product safety standard requiring compliance with stability tests;
- A compulsory recall of baby walkers already supplied under s. 65F of the Act:
  - A generic recall of all baby walkers; or
  - A specific recall of baby walkers which are unstable;
- The preparation of a voluntary industry standard such as the British standard BS 4648:1989;
- The preparation of a mandatory product safety standard requiring a warning label under s. 65C of the Act ;
- The publication of a s. 65B warning notice; and

- An education campaign for parents on the safe use of baby walkers.

### A Product Ban

25. The injury statistics indicate that the three main causes of accidents and injuries to babies in walkers fall into the following categories: (1) falls down stairs, steps, etc; (2) the walker tipping over; and (3) the walker being moved to a position such that the baby can reach a hazardous object.

26. Injuries in categories (1) and (3) result from a lack of awareness of the possible hazardous situations a baby can quickly get into when moving about in a walker, and a lack of adequate supervision. The Bureau notes that overseas studies on baby walker accidents and injury tend to also show that the majority occur because of a lack of understanding by supervising adults about potentially hazardous situations. It appears some parents, for example, are known to use the baby walker as a "passive babysitter" and (mistakenly) believe the baby will be safe if left unattended in it. It also appears that greater vigilance and closer supervision would go a long way towards preventing babies getting into these hazardous situations. Nevertheless, the fact that walkers significantly increase the mobility of infants appears to make a certain level of accidents/injury inevitable. Walkers can move at such a speed that increases the vulnerability of the baby to injury as the speed of movement effectively renders parental supervision and injury prevention difficult, if not impossible. A Canadian study by paediatricians (~~Lead injuries related to the use of baby walkers~~ by Stoffman, Bass and Fox, 1984) stated that "... While the plastic and metal frame of the baby walker supports the infant, the wheels give mobility well beyond that expected for the infant's age. In fact, it has been estimated that a baby in a walker can cover 1 metre in 1 second. This outpaces the reaction time of the occupied parent."

27. As walkers in Australia appear to be a popular consumer item which are imported from overseas, a generic ban on the sale of all walkers would have a large negative effect on importers (and retailers) of these products - the Bureau understands that approximately 38,000 new baby walkers were imported into Australia in 1992. There is a view that no matter how strong the warnings or how much information is made available to consumers through education campaigns, etc, to make them aware of the risks and the proper use of walkers, they do not appear to be effective for significantly reducing injury accidents. Accidents and injuries appear an inevitable consequence of the use (and supply) of all baby walkers because of the increased mobility and speed of mobility they provide to babies. As the NISU statistics indicate and the results of the stability tests undertaken by Technisearch prove, some walkers are also inherently unstable.

28. A total ban on baby walkers under s. 65C(5) of the Act, if effectively enforced, would be a cost effective course of action to undertake as it would guarantee that accidents and injuries from baby walkers sold would stop. Any suppliers or other interest groups objecting to a ban, or other groups and individuals favouring the ban (for example, child safety experts), have an opportunity under s. 65J of the Act for a conference before the Trade Practices Commission to argue their case.

29. A ban may be appropriate as baby walker accidents and injuries are affecting those members of the community who are the most vulnerable - babies. A ban on further supply would have an immediate effect in reducing the cost to the community of injury accidents caused by baby walkers and would eliminate these costs totally in the longer term.
30. A ban on the future supply of baby walkers would also encourage existing owners of baby walkers to reconsider their approach to using (or "handing down") the product. A ban therefore has the potential to also indirectly influence those consumers a product recall may have directly effected.
31. Injuries in category (2) above can be caused by walkers which are unstable by design, either when stationary or moving. In these circumstances, a product ban on specific baby walkers found to be unstable could be justified as a fall back option to a total ban on all walkers if the latter course of action was thought inappropriate. A specific ban would need to be accompanied by measures such as a mandatory warning label requirement and/or an education campaign (if these measures were considered to be effective) in order to hopefully reduce accidents in categories (1) and (3) above which make up the bulk of all baby walker accidents - although the Bureau has doubts in this case about the effectiveness (in practice) of warning labels and education campaigns.
32. Warning labels on walkers have been required in Australia since 1978 and numerous education campaigns have been undertaken in the past in one form or another, but large numbers of injury accidents continue to occur. Adequate educational/instructional material already seems to be available to consumers at either point of sale (ie, on and/or with the walker) or from other easily available sources.
33. As the results of the stability tests performed on the sample of walkers indicated above, 6 out of the 11 baby walkers the Bureau had tested by Technisearch Limited failed the static stability test specified under the British safety standard for baby walkers - 3 of these 6 also had their frame broken while subjected to the moving stability test. A specific product ban may therefore be justified on these walkers which have been found to be unstable.
34. An addendum to the fall back option to a total ban on all walkers may be to ban those specific baby walkers that failed the stability tests with a view to also making a mandatory consumer product safety standard under the Trade Practices Act which requires compliance with the stability tests contained in the British standard. This would require the British Standards Institution to become a prescribed association or body for the purposes of s. 65E of the Trade Practices Act and that part of the standard prepared by the British Standards Institution concerning stability tests to be a mandatory standard under s. 65E of the Act. If, for example, after a 5 year period of the mandatory standard being in force accidents and injuries are still continuing to occur in the large numbers as indicated by the NISU data, then a total ban on baby walkers could be declared at that time. It is important to note, however, that the NISU data (available so far) indicates that accidents and injuries due to the

instability of the walker ie, those involving the walker tipping over, accounted for only 23% of the incidents while those due to a lack of supervision/awareness of possible hazardous situations account for the bulk (70%) of incidents. Nevertheless, injury accidents may be reduced by up to approximately a quarter by such a measure.

### A Compulsory Recall

35. A recall by suppliers of some or all types of baby walkers makes sense only if it is done in conjunction with a ban on their sale. As baby walkers are known to be durable products which (along with the risks involved) are often handed down for use by other later babies in families, a generic recall of all baby walkers under s. 65F of the Act coupled with a ban would assist in removing them totally from use. As in the case of a ban, as a fall back option to a recall of all walkers, there may be a case for recalling specific walkers found to fail the stability tests accompanied by other measures such as a mandatory warning label requirement and/or education campaign if these were considered to be effective - although there are doubts about the effectiveness (in practice) of warning labels and education campaigns.

36. In practice, a recall of baby walkers would be very difficult to organise and undertake. For example, some of the problems associated with a recall include: determining from what date of sale should the walkers be recalled; identifying all current and past suppliers (who may no longer exist) of this product; and, the recall may not be effective ie, some parents may not return baby walkers. Overall, the Bureau considers a recall would not be a sensible or viable course of action to consider in this case.

### A Voluntary Industry Standard

37. As baby walkers on the Australian market appear to be all made overseas (mainly in Taiwan), the establishment of a voluntary industry standard such as the ~~British standard BS 4648:1989~~ may not be effective as there is no Australian industry association with blanket coverage of current and potential baby walker suppliers.

38. Such a standard would only be effective if it was accepted and adhered to by all importers. Even if the standard were to be adopted under some sort of code of practice for the import of baby walkers, the Bureau has reservations about the ability of the importers to self-regulate in the appropriate manner. New entrants to the market may also disregard it and obtain a pricing advantage by adopting lower standards of quality assurance. There appear to be limitations associated with the preparation of a voluntary industry standard such as BS 4648:1989.

### A National Mandatory Product Safety Standard Requiring a Warning Label

39. An effective warning label placed on walkers has the potential to provide consumers with information which will assist them in making rational purchasing decisions at the point of sale, and will assist them in using the product properly if in fact purchased.



40. A national mandatory product safety standard which is limited to the requirement for a warning label on baby walkers similar to the existing NSW regulation may, in principle, help to address the problems of lack of parental awareness and supervision which contribute to most baby walker accidents. A mandatory requirement on suppliers of walkers that they carry an appropriate warning label alerting parents to the possible hazards, which is clearly legible, conspicuous and permanent, would not be onerous to comply with. Importantly, it would also be a requirement that could easily be checked for compliance and enforced by the Bureau.

41. The Bureau has surveyed baby walkers on the market in Sydney and found that many walkers displayed did not comply with the NSW regulation, or had no warning label attached. Although warning labels are not a mandatory requirement for sale outside NSW, walkers sold in other States and Territories in Australia are known to also carry warning labels. Bureau surveys in Canberra and Melbourne have revealed similar findings to those in Sydney ie, warning labels were found only on some walkers sold in these two cities as well. The Bureau also found that some walkers carry other warning labels additional to the NSW regulation requirement, while other walkers carried a warning label but not the one required by the NSW regulation. Unfortunately, some walkers had the required (and/or other) warning labels, but these had faded or were peeled off to an extent where they could not be read very well, if at all.

42. It is questionable, however, whether in practice a warning label - no matter how prominent - will reduce the number of accidents in baby walkers. Accidents will occur (and have been occurring) even with warning labels on walkers or other warnings contained in the instructions for use. Although a warning label may have some effect in reducing accidents and the resultant injuries, it will not be as effective (or certain) in reducing these accidents as a total ban on walkers.

#### **Publication of a Section 65B Warning Notice**

43. The use of a *Gazette* notice under s. 65B of the Act and an accompanying Ministerial press release is a cost effective way to draw particular problems with products to the attention of the public.

44. The Federal Minister for Consumer Affairs published in *Commonwealth Gazette* No. 21 of 2 June 1993 a warning notice to the public under s. 65B of the Act warning of possible risks involved in the use of baby walkers. The Minister also released a press release on 16 June 1993 alerting the public to the hazards involved with the use of baby walkers. Additional formal action may be necessary to supplement this warning notice and reduce the cost to the community of injuries.

#### **An Education Campaign on the Safe Use of Baby Walkers**

45. As has been mentioned above, the majority of injuries involving the use of baby walkers are caused by lack of supervision or by ignorance about potential hazards faced by babies in walkers. An education campaign carefully targeted at parents has the potential, in principle, to bring about a significant improvement to

this situation. An education campaign could involve Government agencies and business and community groups.

46. The education campaign could (with the co-operation of suppliers and hospitals) include, for example, providing parents with information leaflets on the hazards of baby walkers and how to use them safely at the "point of sale" of the baby walker or even at the "point of birth" (ie, at the hospital maternity ward) as part of an information package available or given to parents on the safety of all nursery furniture, not just walkers. Coupled with an appropriate warning label, this course of action could assist more consumers in making rational purchasing decisions and may lead to consumers altering their patterns of demand for baby walkers as they perceive them to be "risky" objects to have in the home. In these circumstances, consumers may decide not to purchase walkers any more and effectively, through their own actions, they "ban" the product from the market as suppliers will ultimately not be able to sell this product. As in the case of consumers effectively "banning" the walkers from the market through their actions, suppliers can also effectively "ban" walkers by not selling them as a reaction to adverse publicity about or concerns with baby walkers.

47. Once again, however, it is not clear whether an (expensive in all likelihood) education campaign, in practice, will be as effective in reducing baby walker accidents as other options. Public information on baby walker use is already currently made available to consumers from a variety of sources eg, from the Child Accident Prevention Foundation, Children's Hospitals, State Health Departments and Injury Surveillance Units, and State Consumer Affairs agencies, etc. Instructional material on safe baby walker use and warnings other than (and in addition to) the NSW regulation requirement already accompanies many of the walkers the Bureau has seen on the market. Continuing and frequent media reports on the risks of using walkers also serve to increase consumer awareness of the problem. The unfortunate fact is that accidents have continued to occur in large numbers even with this information available and, in all likelihood, will still occur even with the most expensive and comprehensive of education campaigns. Any effect of an education campaign in reducing injuries and accidents is likely to be only short term, while the effect of the market itself (consumers and suppliers) "banning" the product may take a long time - possibly as much as a generation - to manifest itself. In the meantime, the community would continue to bear the costs of injury accidents caused by baby walkers.

48. A study into walker injuries [~~Patterns of Walker Use and Walker Injury~~ by ~~Rieder, Schwartz and Newman, 1986~~] has shown that despite an accident and injury occurring, even one as serious as a fracture, parents are more likely than not to continue using a baby walker (on occasion resulting in another injury), and home safety measures are also more likely than not to be unchanged as a result of a walker injury. It therefore appears that parental behaviour may not be changed by an education campaign (and warning label).

## CONCLUSION

49. The majority of injuries to babies in walkers occur because they are allowed access to hazardous areas, either because parents are not aware that a baby can reach these areas or because parents themselves do not realise that a hazard exists. Other injuries occur because babies tip out of walkers that are unstable due to inherent design faults.

50. Baby walkers increase the vulnerability of a baby to injury by providing increased mobility, speed of mobility, height and reach than is normal. Because the baby is not aware of potential hazards, this increases the responsibility of parents to supervise their baby closely and anticipate hazards, including never leaving a baby unattended while in a walker. Unfortunately, the convenience walkers provide to parents may create a false sense of security resulting in diminished vigilance over the safety of the baby. As a result, injuries frequently occur.

51. The most conclusive evidence of the problem is the injury statistics which show that the possible hazards of baby walker (mis)use are clearly not obvious to parents. Although a mandatory warning label requirement and/or education campaign could have some merit and may reduce these injuries, this may not be as effective (in terms of cost and achieving a favourable result) as a ban. A ban will prevent injuries.

52. There have been requirements in Australia for mandatory warning labels for many years. Injuries have continued to occur, with 609 recorded incidents on the NISU database in the period 1986-1992 alone.

53. Whether baby walkers do/do not assist the physical development of a baby or inhibit physical development of a baby (this does not appear to be conclusive either way), is not as significant (or serious) an issue as the access and supervision safety problem which enables most baby walker accidents and injuries to occur. Left to natural development, a baby will eventually walk with or without the aid of a baby walker. Furthermore, use of a baby walker in a (convenient) baby sitting capacity is fraught with danger once one combines the elements of lack of awareness of hazards/supervision and a quick (independently) moving baby in a baby walker which moves at a speed that renders effective supervision and injury prevention difficult, if not impossible. The increased height and reach provided by baby walkers to a baby than is normal also increases the vulnerability of a baby to danger and injury. Further exposure to danger is posed by those walkers which are inherently unstable. A baby left on the floor is far less at risk to suffer serious injury than one in a baby walker. ~~No deaths have been recorded in Australia attributable to baby walkers that the Bureau is aware of; however, 18 deaths due to walker use have been recorded in the USA according to information provided by the Injury Prevention Forum of South Australia.~~

**COMMENTS INVITED**

54. The options for action to reduce injuries to babies from walkers have been set out in paragraph 24 above. Written comments are invited on these options by 30 September 1993 and should be addressed to:

Director  
Product Safety  
Federal Bureau of Consumer Affairs  
Lionel Murphy Building  
50 Blackall St  
BARTON ACT 2600

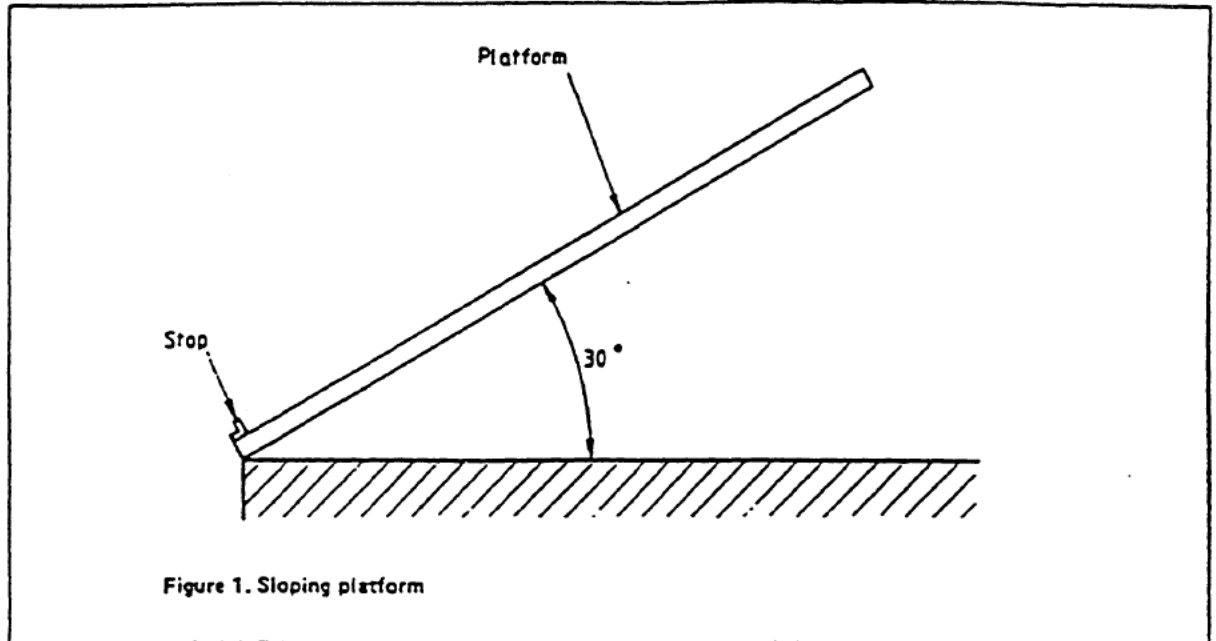
## Appendix E. Static stability test

### E.1 Stability test on all baby walking frames

#### E.1.1 Baby walking frames with non-adjustable seats

E.1.1.1 Place the test dummy described in appendix B in the baby walking frame. If necessary, pack the seat with expanded polystyrene of negligible mass until the base of the test dummy is 180 mm above the floor. Position the test dummy in the most onerous location within the confines of the seat. Adjust the castors on the baby walking frame to their least stable condition.

E.1.1.2 Place the baby walking frame on a sloping rigid platform which is wider than the baby walking frame



and is set at 30° to the horizontal (see figure 1). Ensure that two adjacent castor assemblies rest against stops which have a height of at least half the diameter of the wheels or their axles and that the stops contact only the wheels or their axles. Ensure that all other castors are higher up the slope than those resting against the stops.

E.1.1.3 Repeat the procedure described in E.1.1.2 for each adjacent pair of castors.

#### E.1.2 Baby walking frames with adjustable seats

E.1.2.1 Place the test dummy described in appendix B in the baby walking frame. Adjust the seat to its highest position. Position the dummy in the most onerous location within the confines of the seat. Adjust the castors on the baby walking frame to their least stable condition.

E.1.2.2 Place the baby walking frame on a sloping rigid platform which is wider than the baby walking frame and is set at 30° to the horizontal (see figure 1). Ensure that two adjacent castor assemblies rest against stops which have a height of at least half the diameter of the wheels or their axles and that the stops contact only the wheels or their axles. Ensure that all other castors are higher up the slope than those resting against the stops.

E.1.2.3 When the seat is adjusted to its highest position, if the base of the test dummy is less than 180 mm above the floor repeat the procedure described in E.1.2.2 with the seat packed with expanded polystyrene of negligible mass until the base of the dummy is 180 mm above the floor.

E.1.2.4 Repeat the procedure described in E.1.2.2 for each adjacent pair of castors with the test dummy in the more onerous of the two positions determined in E.1.2.2

### E.2 Additional stability test on baby walking frames fitted with trays

If the baby walking frame has a tray, place the baby walking frame without the test dummy on a horizontal surface. Place a mass of 12 kg on the centre of the tray. Maintain the load for 1 min.

## **Appendix F. Moving stability test**

### **F.1 Baby walking frames with non-adjustable seats**

**F.1.1** Place the baby walking frame on a level horizontal surface with the test dummy described in appendix B positioned as described in E.1.1.1. Move the baby walking frame so that its tendency to tip is not restrained along the surface at a speed of 2 m/s until it hits a 50 mm high non-resilient stop in such a way that two adjacent castors hit the stop at the same instant.

**F.1.2** Repeat the procedure described in F.1.1 for each pair of adjacent castors.

### **F.2 Baby walking frames with adjustable seats**

**F.2.1** Place the baby walking frame on a level horizontal surface with the test dummy described in appendix B positioned as described in E.1.2.1. Move the baby walking frame so that its tendency to tip is not restrained along the surface at a speed of 2 m/s until it hits a 50 mm high non-resilient stop in such a way that two adjacent castors hit the stop at the same instant.

**F.2.2** When the seat is adjusted to its highest position, if the base of the test dummy is less than 180 mm above the floor repeat the procedure described in F.2.1 with the seat packed with expanded polystyrene of negligible mass until the base of the dummy is 180 mm above the floor.

**F.2.3** Repeat the procedure described in F.2.1 for each adjacent pair of castors with the test dummy in the more onerous of the two positions determined in F.2.1 and F.2.2.



CHILD ACCIDENT PREVENTION FOUNDATION OF AUSTRALIA

Mr J.J. Wunsch  
Director, Product Safety  
Federal Bureau of Consumer Affairs  
Attorney-General's Department  
Lionel Murphy Building  
50 Blackall St  
Barton ACT 2600

5 October 1993

Facsimile: 06 250 5966

Dear Mr Wunsch,

Review of Consumer Product Safety: Babywalkers

Attached is the joint submission of the Child Accident Prevention Foundation of Australia and the Australian College of Paediatrics concerning the safety of babywalkers.

The submission has been prepared by the Foundation and the College in consultation with a range of organisations and individuals concerned with child health and injury prevention, consumer organisations and retailers.

In summary the submission says:

1. Babywalkers are a significant hazard to young children and action is required to address this hazard.
2. Injury data indicate that it is the use made of babywalkers rather than design defects that are the major factor associated with injury.
3. Australian and international experience clearly show that warnings to purchasers are ineffective in reducing injury associated with babywalkers.
4. In the absence of effective alternatives a product ban is the only mechanism likely to reduce the incidence of babywalker injury.

COMMONWEALTH REVIEW OF CONSUMER PRODUCT SAFETY: BABYWALKERS

Joint Submission by  
The Child Accident Prevention Foundation of Australia  
and  
The Australian College of Paediatrics

September 1993

Background

1. Babywalkers are associated with a significant number of child injuries, primarily to children aged 6 to 14 months. The pattern of injuries associated with the walkers are non-trivial; head injuries predominate and the incidence of burns and scalds is also of concern.

International experience and literature dating back at least ten years are now supported by Australian data, analysis and conclusions.

Australian data demonstrate that babywalkers are a child injury hazard. The analysis of injuries which will be included in the submissions of organisations such as Monash University Accident Research Centre, Childsafe NSW and South Australian Health Commission clearly shows the significance of babywalker injuries.

2. The injuries are, for the most part, associated with the child in the babywalker moving into danger. Available evidence indicates that the children injured were given access to the hazards at a speed and to a degree they would not have had in the absence of the walker. To the extent that a babywalker gives a young child access to potential hazards beyond his/her ability to deal with them it is an inherently dangerous product.
3. We are not aware of any evidence that the walkers improve the development of the child in any way beyond the levels that would otherwise occur or that use of the walker speeds up the process of development to any significant degree. There is argument and contested evidence that walkers may distort or impede development.
4. While there is no evidence on the value of babywalkers it is apparent that they are popular items of nursery furniture and are commonly used.



### Options for intervention to reduce the risk of injury

There are a number of ways proposed to reduce the incidence of child injuries associated with babywalkers.

(A) Increase the safe use / Reduce the unsafe use of Babywalkers.

5. This involves warning parents and carers of the high risk practices associated with babywalkers and how to avoid them and involves warning labels on the product and public education campaigns.
6. Attempts to reduce the incidence of injury by warning labels and public education have not been effective.

We are aware of no evidence that indicates that the provision of warning labels on babywalkers has reduced the level of child injury. In NSW warning labels have been in place since 1978 without obvious effect. American data indicate that warning labels have not been effective in preventing babywalker-injuries from increasing.

7. Advocating careful use of babywalkers as a means of preventing these injuries is problematic in principle. It implies that "safe use" is practicable.

By its nature the babywalker gives the baby mobility that permits accelerated access to hazards. A significant factor in babywalker injury is likely to be the child in a walker being faster than a parent's ability to intervene. This is supported by studies on the pattern of domestic scalds which show that a high proportion (of the order of 70%) of scalds occur in the presence of an adult. There is no evidence that the injuries are associated with the "lack of vigilance" mentioned in the Discussion Paper.

In the face of the hazards, usually present in most homes "safe use" of a babywalker would require constant supervision of a child using the babywalker or separation of the child in the babywalker from all hazards by means such as barriers. Neither of these options is practical or likely to occur in the normal household.

On the grounds that they give too speedy an access to hazards the Foundation and its sister organisation in the United Kingdom recommend against the use of babywalkers even if carefully supervised.

8. It is the view of the Foundation and the College, based on Australian and international experience, that warning labels have been ineffective in reducing child injury in babywalkers. This is consistent with experience with warnings as a mechanism of reducing other injuries.

**(B) Improve the design of the babywalkers to deal with specific injury problems.**

9. It has been argued that injuries may be reduced by improvement in design directed at the particular causes of injury. This position is not borne out by analysis of the injury data. It is an important implication of the injury pattern that infant injuries are the result of the nature of the babywalker rather than any deficiency in design or construction.

Six out of ten injury cases were falls down steps or stairs and one in ten cases involved access to a hazardous object. These injuries were the result of what the babywalker permitted the child to do rather than because the babywalker failed in any way. Basically it is the success of the babywalker in permitting a child to move around that is the major factor associated with injury.

10. Design issues, primarily related to the stability of the babywalker, are associated with about one in four child injuries. Therefore redesign of the babywalker would not affect the majority of child babywalker injuries and a construction standard, whether voluntary or mandatory would not be an effective injury control solution.

**(C) Reduce the numbers of Babywalkers being used:**

- (i) Warn parents on the potential danger of babywalkers and advise against their use.**
11. If babywalkers are a hazard to children sufficient to warrant a warning against their use then, in the absence of substantial benefit from their use, there is a conflict in continuing sale.

Mandatory warnings against babywalkers required at point of sale are inconsistent. If the product is sufficiently dangerous to children to require a mandatory warning why is it not banned?

Discouragement of use by extensive warnings from non-government bodies such as the Child Accident Prevention Foundation of Australia and the Australian College of Paediatrics would require significant mainstream media coverage and regular reinforcement to have any effect.

Based on experience with other health promotion messages such warnings are unlikely to have sufficient influence on parents in general.

(ii) Voluntary ban by retailers and manufacturers

12. A voluntary ban against sale of babywalkers by retailers is possible. At least one retailer, Coles-Myer, has refused to stock and sell babywalkers for some time on the grounds of public safety.

If the product is sufficiently dangerous to warrant action by retailers against their financial self interest it is sufficiently dangerous to warrant a ban as a dangerous product.

A voluntary ban of this nature is against retailers interest and is unlikely to be completely effective. In the face of the twin pressures of demand from parents and the loss of sale on babywalkers and related products to competitors a complete retail ban is unlikely.

(D) Remove Babywalkers from sale as an unsafe product.

13. Babywalkers are a product with a significant injury risk in a vulnerable and dependent age group.

Although the product is popular with parents there is no evidence that it is anything other than a non-essential item of play equipment.

In the absence of an effective strategy for reducing the injuries associated with babywalker use by other means the product should be banned as a dangerous product.

(E) Recall existing Babywalkers.

14. A recall would present considerable practical difficulties.

In the presence of a ban on new sales the exposure to this hazard is likely to drop substantially. This would occur as babies outgrow walkers, as the existing walkers wear out and as the ban on sales and substantial adverse publicity reduce the use of existing babywalkers.

Discussion

Popularity of babywalkers.

15. Parents and carers may use walkers because they believe that the walkers are of developmental assistance to the child, because they believe that the child enjoys the experience of the walker, because it keeps the child in a form of control and off the floor, because it is a form

of caring for the child that is convenient for the parent or any combination of these reasons.

Many parents appear to be aware of a risk associated with babywalkers, particularly related to falls, but believe that by increased watchfulness they can anticipate and prevent anything serious happening. Parents are repeatedly shocked by the speed with which the naturally mobile child can move from safe to dangerous.

16. For a ban to be effective it will require the reasons for the ban to be fully explained to parents and to the media. This in return requires careful planning and effort.

The Child Accident Prevention Foundation of Australia and the Australian College of Paediatrics would be happy to discuss ways in which they could support programs to reduce the incidence and severity of babywalker injury and to explain these issues to the public and to manufacturers and retailers.

Having discussed this matter with a number of other child health, injury and consumer organisations we believe there to be strong support for a ban and willingness to co-operate in public education programs.

### Conclusion

In the face of the clear failure of warning labels and education campaigns to reduce the incidence and severity of child injury associated with babywalkers and in the absence of evidence that there are effective alternative mechanisms to reduce babywalker injuries the Child Accident Prevention Foundation and the Australian College of Paediatrics fully support a ban on the sale of babywalkers as an unsafe product.

In summary the Foundation and College believe:

Babywalkers are a significant hazard to young children and action is required to address this hazard;

Injury data indicate that it is the use made of babywalkers rather than design defects that is the major factor associated with injury;

Australian and international experience clearly show that warnings to purchasers are ineffective in reducing injury associated with babywalkers;

In the absence of effective alternatives a product ban is the only mechanism likely to reduce the incidence of babywalker injury;

To be effective and acceptable to the public a product ban should be accompanied by a public education program to explain the reasons for the ban; and

In the event of a product ban a program to reduce the use of existing babywalkers should be implemented. A recall of existing babywalkers is not considered practicable.

Attachment: ARTICLES DETAILING HAZARDS OF BABYWALKERS.

Baby Walker Injuries. Fazen L E, Felizberto P I, Paediatrics 1982; 70; 106-109.

The Infant Walker, a previously unrecognized health hazard. Kavanagh C A, Banco L, American Journal of Disease in Children 1982; 136; 205-206.

Baby-walker related injuries. Wellman S, Poulsen J A Clinical Paediatrics 1983; 23; 98-99.

Head injuries related to the use of baby walkers. Stoffman J M, Bass M J, Fox A M, Canadian Medical Association Journal 1984; 131; 573-575.

Baby walker frames: a preventable factor in infant's burns. Meyer M, Burns 1988; 14; 145-146.

Patterns of walker use and walker injury. Reider M J, Schwartz C, Newman J. Paediatrics 1986; 78; 488-493.

Babywalkers - time to take a stand? Gleadhill D N S, Robson W J, Cudmore R E, Turnock R R, Archives of Disease in Childhood 1987; 62; 491 - 494.

Babywalkers and infant burns. Birchall M A, Henderson H P, British Medical Journal 1988; 296; 1641.

Babywalkers. Middleton J D (letter), British Medical Journal 1988; 297; 202-203.

The Infant walker: an unappreciated household hazard. Marcella S, McDonald B, Connecticut Medicine 1990; 54; 127-129.

Child Injuries associated with nursery Furniture. Ozanne-Smith J, Heffernan C J, Monash University Accident Research Centre, March 1990.

Babywalker related injury - a continuing problem. Coats J, Allen, M. Archives of Emergency Medicine 1991; 8; 52-55.

## How Risky are Baby Walkers?

It has been very clear to injury specialists and medical professionals for some considerable time that baby walkers are associated with far too many injuries and that they are a hazardous product. Kidsafe policy is to advise against their use and the Foundation has recommended that they be removed from sale as a hazardous product.

While information on the incidence and pattern of injury has been available for some time, two recent studies have now extended our knowledge of the relative risk of baby walkers.

Existing studies clearly show that it is babies aged six to twelve months who are injured, that baby walkers are the leading product-related cause of injury in this age group and that falls are the major cause of injury. There is no demonstrated benefit in terms of a baby's development from the use of a baby walker and some indications that it may adversely affect gait and motor development.

### *New analysis*

In separate studies, Jerry Moller from the National Injury Surveillance Unit (NISU) and Fiona Williams from Victorian Injury Surveillance (VISS) have clearly shown the increased risk of injury associated with baby walkers compared to other nursery products.

VISS have used information on the ownership and use of baby walkers in the Australian Bureau of Statistics survey 'Safety in the Home', to connect the incidence of injury with the estimated use of baby walkers and other nursery furniture.

It is estimated that 30% of Melbourne households with a child under twelve months have a baby walker, 65% have a high chair and 97% have a pram or stroller. From this Fiona has calculated that the risk of injury from baby walkers is 4.6 times higher than the risk of injury from a pram/stroller and also that the risk is 3.8 times higher than the risk of injury from high chairs.

NISU analysis shows that those aged seven and eight months have more injury. Jerry Moller estimated that, after allowing for ownership levels, baby walkers have about seven times the injury rates of prams/strollers and high chairs. When allowance is made for the usage rate of baby walkers this relative

injury level rises to ten times the rate for the other products. Put another way, NISU estimates that, in terms of the risk of hospitalisation, one hour in a baby walker is equivalent to eleven hours in a pram/stroller, thirteen hours in a high chair and forty-six hours in a cot.

### *What is happening about baby walkers?*

The Commonwealth Minister for Consumer Affairs has been advised that she does have the legal power to ban baby walkers from sale and is currently considering what other action the Federal Government is able to take to address this hazard. ■

2080

Ms Susan Dixon  
Assistant Director, Policy  
Department of Consumer Affairs  
Level 4, 1 Fitzwilliam Street  
Parramatta 2150

Dear Ms Dixon

**FAIR TRADING (PRODUCT SAFETY STANDARDS) REGULATION 1995**

Thank you for the opportunity to comment on the Regulatory Impact Statements for Swimming Pools: Outlets and Schedule 2 - Spas Outlets, for Cellulosic Fibre Thermal Insulation, for Projectile Toys and for Baby Walkers.

Our comments are as follow:

**1. Swimming Pool and Spa Outlets - Potty Skimmers**

Injuries inflicted on children sitting on these have been extremely serious. It appears, however, that the current regulation has been effective and we support its renewal.

**2. Cellulosic Fibre Thermal Insulation**

Remaking the current regulation is supported.

**3. Projectile Toys**

Variation to the current regulation is supported except for deletion of the warning in Clause 7.15.4. While we acknowledge the suppliers' difficulties, these toys are still associated with serious injuries to children.

**4. Baby Walkers**

We are concerned that no stronger action is being proposed, given the high incidence of injury associated with baby walkers.

The NISU and Camperdown data establish the dimensions of the problem, as does work by Ozanne-Smith et al (Victorian Injury Surveillance System.)

There has been much and continuing controversy surrounding this product. You are doubtless aware that "The Investigators" on ABC TV have been pushing the issue. What is surprising is the reluctance of authorities to take decisive action in the face of the information available.

We suggest that the classification of baby walkers be reviewed.



They have only one purpose, and that is to entertain a baby. Research both in Australia and in the United States has failed to substantiate manufacturers' and suppliers' claims that they have any therapeutic value, and many early childhood health professionals respond to enquiries by saying that the devices actually retard development by encouraging toe walking and other faults in the gait of the child learning to walk.

If it is accepted that the only real use for a baby walker is for the entertainment or amusement of a child, the logical conclusion is that a baby walker is a toy. Any toy with the injury consequences of baby walkers would not be tolerated.

We appreciate that strongest action available to the Minister in New South Wales is an interim ban. Redefinition of the baby walker, based on its function, is advocated.

We noted with some concern that, under the heading of *Benefits* on page 54, 21.9 implies that by continuing as at present that the community will believe "the level of safety is being properly addressed" - in despite of the injury surveillance data - and that 21.10 is very difficult to follow, if the primary concern is to stop children being injured. On page 55, *Costs*, 22.4 "Any further accidents would result in reduced confidence in the product" can only appear to workers in injury prevention as a major benefit. Babywalkers are not a product that the community **should** have confidence in.

Thank you again for the opportunity to comment.

Yours sincerely

Chris Gowdie  
Executive Officer - NSW Division

For the Child Accident Prevention Foundation of Australia

25 July 1995



New South Wales

APPENDIX No. 7

**The Hon. Faye Lo Po' MP**

Minister for Consumer Affairs  
Minister for Women

- 3 OCT 1995

Mr Doug Shedden MP  
Chairman  
Regulation Review Committee  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

RML 95/01320  
File No. 95/04902

Dear Mr ~~Shedden~~ *Doug*,

I refer to your letter of 16 August 1995 (your reference 2116) regarding the Fair Trading Act 1987 - Regulation (Relating to baby walkers) Gazette Ref. 22 July 1994.

I wish to advise that this has now been replaced by requirements in the Product Safety Regulation 1995, which commenced on 1 September 1995. The substance of the new standard for baby walkers remains the same, so your questions are referable to the 1995 regulation.

Requirements for baby walkers have been in place in NSW since 1987 when a conditional banning order introduced a warning label on the product. Following concerns at statistics linking baby walkers with numerous injuries the then Minister for Consumer Affairs referred baby walkers on 11 December 1992 to the NSW Products Safety Committee (PSC). It is considered that the requirements of Schedule 1 of the Subordinate Legislation Act were fulfilled in the process of the PSC Inquiry. Briefly, the referral posed both questions under section 28 of the Fair Trading Act 1987, namely as to whether the supply of baby walkers, by reason of their being dangerous, or being a possible source of danger, ought to be prohibited, or to be allowed only subject to conditions or restrictions; and whether baby walkers should be subject of a recall order.

Subsequently an advertisement appeared in the Sydney Morning Herald on 19 December 1992 seeking submissions to the inquiry from interested persons or organisations. The inquiry received six submissions from the following organisations: Target Australia Pty Ltd, The Child Safety Centre of the Children's Hospital Camperdown jointly with the Child Accident Prevention Foundation of Australia (NSW Division), Gro-Years Nursery Furniture, Britax Child Care Products Pty Ltd, Childcare Nursery Products Pty Ltd and IGC Trading Pty Ltd.

During the course of its investigation the PSC examined a number of accident statistics for baby walker related injuries from both Australia and overseas. The subsequent report by the PSC noted that it had not resolved the issue of whether the dangers with baby walkers are posed by lack of supervision or that the products are inherently dangerous. Given the

differences in opinions expressed to the inquiry, the PSC believed that debate in this regard would be unproductive. The major recommendations approved by the Minister on 28 June 1993 were more forceful warnings on the product and the introduction of instructional material and additional warnings in the form of an accompanying leaflet or swing tag. Furthermore, the effectiveness of these new measures was to be reviewed after 12 months of operation.

The Department maintained close liaison with the Federal Bureau of Consumer Affairs (FBCA) throughout the inquiry. Subsequent to the August 1993 discussion paper you mentioned in your letter, the Federal Minister for Consumer Affairs announced on 3 September 1993 that the FBCA was to conduct an urgent inquiry into the safety of baby walkers. A copy of the NSW report and draft regulation was forwarded to the Federal Minister with a request that it be considered by both the FBCA inquiry and the Commonwealth State Consumer Products Advisory Committee.

When there was no apparent outcome from the FBCA investigation, NSW, with the knowledge of the Commonwealth, introduced the regulation on 22 July 1994. The regulation had a delayed commencement date of 1 November 1994 to allow suppliers sufficient time for compliance.

The Subordinate Legislation Act 1989 meant that this regulation was subject to repeal on 1 September 1995. (See Annexure 'A' Regulatory Impact Statement). The review undertook consultation with identified relevant organisations and industry bodies and included those organisations that had made submissions in the earlier PSC Inquiry. During the time of the review the Federal Minister for Consumer Affairs requested all suppliers to cease marketing baby walkers. Of the major suppliers to large retail outlets such as K-Mart, Target and Myers contacted during the review all but one indicated that as a result of the Federal Minister's stand on baby walkers they had decided to discontinue supply. It remains to be seen, however, whether consumer demand has declined, otherwise smaller importers may increase their supply to fill the void.

Neither the Commonwealth nor any other State/Territory has placed restrictions or bans on baby walkers, with the FBCA citing concerns about the legal ability to do so. Generally under the operation of mutual recognition this creates a situation where the effectiveness of a NSW requirement is severely weakened, especially given that most major suppliers originate in Victoria. However, the active involvement of the PSC Inquiry with the major suppliers had seen acceptance and use of the instructions and warnings not only on baby walkers supplied to NSW but to other States as well.

In your letter you note the concerns expressed by staff of King George V Hospital that baby walkers may be used with premature infants. I would like to point out that the safety instructions introduced by NSW include warnings that the baby walker should not be used by a child who cannot sit unaided, that both feet of the child should be able to touch the ground, as well as advice of the maximum and minimum weights and heights of children for whom the walker is designed. It is hoped that providing consumers with this type of information will ensure baby walkers are used appropriately.

Prior to introducing the safety standard there were approximately 100 baby walker related accident hospital reports in NSW each year. I recognise the importance of ensuring any safety standard introduced is able to achieve the objectives of the regulation. The effectiveness of the safety standard is intended to be reviewed by the end of 1995 as part of the action plan of the NSW Injury Expert Panel set up by the NSW Health Department. The key agencies in the review of baby walker injuries are Consumer Affairs, Health Department and Kidsafe. I would like to add that referral back to the PSC will be considered if injury statistics show no improvement.

Yours sincerely

Faye Lo Po' MP  
**Minister for Consumer Affairs**

Our Ref: BCA 95/1016



FEDERAL BUREAU OF

*Consumer  
Affairs*

21 November 1995

Mr Doug Shedden  
Chairman  
Regulation Review Committee  
Parliament of New South Wales  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Dear Mr Shedden

Thank you for your letter of 16 November 1995 to the Minister for Consumer Affairs, the Hon Jeannette McHugh. The Minister has asked me to respond on her behalf.

I regret that the Bureau is unable to give evidence before the Committee at its meeting in Sydney on 23 November, but would like to draw the following matters to its attention.

Since the release of the discussion paper on baby walkers in August 1993 the Minister has, on two occasions, examined the feasibility of prohibiting the sale of baby walkers under the provisions of the Trade Practices Act 1974. She has received advice from both the Solicitor-General and the Chief General Counsel that a ban on baby walkers would not be possible under the current provisions of the Act.

Accordingly, in March 1995 the Minister wrote to industry and consumer associations seeking voluntary withdrawal of baby walkers from the market. The responses to the Minister's letter, a copy of which is enclosed, revealed that:

- larger retailers – David Jones, Myer-Grace Bros, Target, Toys R Us and KMart – have already stopped selling the product and wholeheartedly support the suggestion of a voluntary withdrawal;
- a number of smaller retailers do not stock, and do not intend to stock baby walkers because of the hazards associated with their use, and support the suggestion of voluntary withdrawal;

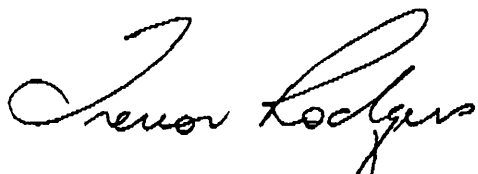
- one consumer association supports the use of baby walkers under strict supervision, with legislation requiring "large warning signs" pointing out the dangers associated with their use;
- one housewives association believes that baby walkers can be beneficial to the child, and that the main problem is the lack of adult supervision – they support the idea of warning notices.

The Bureau is aware of the New South Wales regulation which requires baby walkers to be accompanied by a warning and is very interested in the evaluation of the results which the regulation has achieved.

I should also mention that the principles and guidelines established by the Council of Australian Governments (COAG), stress the value of a national approach to such safety issues. Accordingly it would be appropriate to involve the Consumer Products Advisory Committee (CPAC), which advises the Ministerial Council on Consumer Affairs (MCCA) on developments aimed at reducing the risk of injuries relating to the use of baby walkers.

Enclosed for your information are copies of the Minister's letter of 31 March 1995, seeking the voluntary withdrawal of baby walkers from the market, and two Ministerial press releases on the same issue, dated 14 May and 5 July 1995. We also have on file a lengthy report, *Baby Walker Project Status Report June 1995*, produced for the United States Consumer Product Safety Commission. I would be happy to send a copy of this to you if it would be useful to the Committee.

Yours sincerely



TREVOR RODGERS  
Assistant Secretary  
Safety, Liaison and Legal Branch

BCA94/3030

Dear Sir/Madam

I am writing to you to seek your co-operation in reducing baby walker accidents.

As you may be aware I have been particularly concerned about the level and severity of injuries occurring to babies from these products. The most common and often horrific injuries caused to young children in baby walkers are from falls and from burns and scalds because of access to hot surfaces and hot liquids.

I have received representations from paediatricians, physiotherapists, community nurses and others calling for these products to be banned from sale in Australia. As a result, I directed the Federal Bureau of Consumer Affairs to investigate the feasibility of prohibiting the supply of these products under the *Trade Practices Act 1974*. However, I have been advised that a generic ban on baby walkers cannot be introduced under the *Trade Practices Act* at this time.

I am therefore considering other options and in conjunction with the retail sector, injury prevention professionals and the medical community, I am seeking to have these products voluntarily withdrawn from sale throughout Australia. I have been advised that some responsible retailers no longer supply baby walkers and I would appreciate your views on whether your company would be prepared to cease the supply of baby walkers.

I believe retailers taking action not to supply baby walkers would be recognised by the community as acting responsibly and should receive appropriate acknowledgment. I have not finalised the form of this recognition and your views on how this may be best achieved would be appreciated.

I understand that voluntary action by the industry in Canada has been successful in reducing the availability of baby walkers. The US Consumer Product Safety Commission has also recently announced plans for a standard aimed at reducing or eliminating the mobility of baby walkers and at ensuring such products are unable to pass through standard doors. I am pleased to note that this decision has led manufacturers in the US to develop alternative 'entertainment' centres which provide the child with movement within a frame but which do not have the mobility problems associated with baby walkers. Such international developments are clearly important to Australia.

For your information I will also be writing to injury prevention professionals, Kidsafe, and the medical community seeking their co-operation in informing consumers of the risks associated with baby walkers. I hope with your co-operation to be able to reduce the serious injuries occurring to Australian children.

Yours sincerely

Jeannette McHugh





# Media Release

Minister for Consumer Affairs  
The Hon. Jeannette McHugh MP

Sunday, May 14 1995

## RETAILERS AGREE NOT TO SELL BABY WALKERS

Many retailers of nursery products throughout Australia have agreed not to sell baby walkers because of their potential danger to children following a written request from the Federal Consumer Affairs Minister, Jeannette McHugh.

Last month, Ms McHugh wrote to more than 350 retailers, asking that they refuse to supply baby walkers - a product which is not manufactured in Australia. Already many have responded, indicating they would either not stock baby walkers or would discontinue sale of this product.

Ms McHugh said while she would like to issue a generic ban on the product, she had received advice from the Solicitor-General that this was not legally possible.

However, she said the Federal Bureau of Consumer Affairs was closely monitoring developments in the United States in which the US Consumer Product Safety Commission had announced plans for a mandatory standard aimed at reducing or eliminating the mobility of baby walkers.

"The problem with baby walkers relates to the speed with which a child, who has not yet learned to walk, can travel," Ms McHugh said.

"In no time at all, a child using a baby walker can reach a potentially dangerous situation, such a flight of stairs or an ironing board on which a hot iron is resting.

"I have long been concerned about baby walkers being available on the Australian market and after being advised that I could not yet ban the product, I took the next best step in approaching the retailers direct. I commend those retailers who have since taken the responsible approach in agreeing not to sell this product."

Both the Australian College of Paediatrics and the American Academy of Paediatrics have called for a complete ban on the sale and manufacture of baby walkers.

Reports from the US Consumer Product Safety Commission indicate that 25,000 children were admitted to hospital emergency rooms for walker-related injuries in 1993, while surveys showed up to 40 percent of babies placed in walkers in the United States were involved in some type of accident.

Since 1989, 11 children have died in the United States from baby walker accidents.

In Australia, there were 609 recorded incidents of baby walker-related injuries between 1986 and 1992. No deaths were recorded.

Ms McHugh said the FBCA was also monitoring the US situation, in which manufacturers of baby walkers appeared to be responding to concerns about the product by inventing alternative "entertainment" centres which did not have the same capacity to move.

She also urged parents who used baby walkers to closely supervise their children.

"I acknowledge that finding a way to effectively remove the risks associated with baby walkers is not the responsibility of just one sector," Ms McHugh said.

"Parents who want to use this product must ensure close supervision at all times. However, I remain convinced the best solution is not to use them at all."

Further information: Helen Willoughby: 06-277 7790  
06-231 2758 (ah)  
018-620 818



*Jeannette* 26

# Media Release

Minister for Consumer Affairs  
The Hon. Jeannette McHugh MP

Wednesday, July 5 1995

## BABY WALKERS - K-MART

Federal Consumer Affairs Minister Jeannette McHugh said she is gratified that K-Mart has today decided to withdraw baby walkers from sale as she requested they do earlier this year.

But she said she was angered and disappointed that K-Mart took the decision under pressure, following an attempt to have a nationwide firesale of baby walkers.

"I am very pleased that K-Mart has written to me today, advising that they will no longer sell baby walkers," Ms McHugh said.

"However, I understand they only took this decision following concern by some customers and media attention. I would have preferred they had acted responsibly in the first place."

K-Mart had advertised in their current catalogue that baby walkers would be on sale in all their Australian stores for \$35.

This was despite Ms McHugh having written to more than 350 suppliers of nursery products across Australia in April, requesting they not sell baby walkers because of their potential danger to babies.

In response, four of the major department stores - Myer Grace Bros., David Jones, Toys 'R' Us and Target - and a number of smaller retailers said they either did not sell, or would discontinue sale of baby walkers. K-mart did not respond to the letter.

Following legal advice from the Solicitor-General that she could not issue a generic ban on baby walkers, Ms McHugh appealed to parents not to purchase the product.

She said she would be writing to the Chief Executive Officer of K-Mart to express her disappointment at K-Mart's attempted firesale of baby walkers, and to ask that it not happen again in the interests of consumers.

Both the Australian College of Paediatrics and the American Academy of Paediatrics have called for a complete ban on the sale and manufacture of baby walkers.

Since 1989, 11 children have died in the United States from baby walker accidents, while 25,000 children were reportedly admitted to hospital for walker-related injuries in 1983.

In Australia, there were 609 recorded incidents of baby walker-related injuries between 1986 and 1992.

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FACSIMILE MESSAGE FOLLOWING

TO: Jim Donohue

FROM: Dr. Ingrid Reiche

Here are some references regarding the adverse effects of baby walkers. Let me know if you need further assistance.

Ingrid Reiche

NUMBER OF PAGES FOLLOWING: 4

Head of Department: Professor David Henderson-Smart Director of Intensive Care: Dr. Nick Evans

The United States Consumer Product Safety Commission is currently investigating whether to develop a mandatory standard for baby walkers which would address the dangerous mobility factor, thus making them impossible to market.

Ms McHugh said the Federal Bureau of Consumer Affairs was monitoring developments in the U.S. and would advise her accordingly.

"The problem with baby walkers relates to the speed with which a child, who has not yet learned to walk, can travel," Ms McHugh said.

"They are an enormously dangerous product and K-Mart is in no position to say it was not aware of my concern about their sale in Australia.

"I can only hope today's decision by K-Mart to withdraw baby walkers from sale forever is a lesson to other Australian retailers who may still be selling this product."

Further information: Helen Willoughby: 06-277 7790

## BABY WALKER REFERENCES

### **Baby walker related injuries--a continuing problem.**

Coats-TJ; Allen-M

Accident and Emergency Department, Leicester Royal Infirmary, U.K.

Arch-Emerg-Med. 1991 Mar; 8(1): 52-5

### ENGLAND

AB: Baby walkers have been associated with burns, head trauma and other types of injury. A retrospective study of all infants under the age of two years attending an accident and emergency unit demonstrated 22 injuries associated with baby walkers from a total of 1049 attendances. The most serious injuries were three skull fractures, with the most common mechanism being of a fall downstairs in the walker. Injury while in a baby walker occurred with a similar frequency to injury due to road traffic accidents. We conclude that despite previous warnings Baby Walkers still represent a considerable hazard to infants

### **Head injury and the use of baby walkers: a continuing problem.**

Partington-MD; Swanson-JA; Meyer-FB

Department of Neurological Surgery, Mayo Clinic, Rochester, Minnesota 55905.

Ann-Emerg-Med. 1991 Jun; 20(6): 652-4

### ENGLISH

### UNITED-STATES

**STUDY OBJECTIVE:** To determine the frequency of baby walker use as a contributing factor in head injuries in children less than 2 years old. **DESIGN:** Retrospective clinical review. **SETTING:** Urban Level I trauma center and multispecialty clinic. **TYPE OF PARTICIPANTS:** All children less than 2 years old who were evaluated for a head injury during a three-year period. **MEASUREMENTS AND MAIN RESULTS:** 129 patients' cases were reviewed. Walker-related injuries occurred in 19 of 129 patients (14.7%). This represents the third most common mechanism of injury in this age group. Mean patient age at the time of injury was 8.7 months. Of the 19 accidents involving walkers, 18 (94.7%) involved falling down stairs. Nine children (47.4% of all walker-related injuries) suffered fractures of the cranial vault. No patients required surgical intervention, although one required treatment for post-traumatic meningitis. **CONCLUSION:** Baby walkers continue to be a frequent cause of head injury in this age group, and further efforts must be made to deal with these preventable injuries.

### **Thermal injury associated with infant walking-aids.**

Birchall-MA; Henderson-HP

Burns Unit, Leicester Royal Infirmary, UK.

Burns-Incl-Therm-Inj. 1988 Jun; 14(3): 244-7

### ENGLISH

### ENGLAND

Leicester Royal Infirmary and Government statistics have shown that an increase in the use of baby-walkers has been accompanied by a rise in the incidence of burns associated with their use. These burns tend to be more severe than the average for this age-group. Three case histories are presented as illustrations. The head, neck and hands are particularly affected. Three mechanisms of injury are identified. Safety guidelines are unrealistic and not enforced, testing is inadequate, and the devices hinder normal motor development.

### **Baby walkers . . . time to take a stand?**

Gleadhill-DN; Robson-WJ; Cudmore-RE; Turmock-RR

Arch-Dis-Child. 1987 May; 62(5): 491-4

### ENGLISH

### ENGLAND

Experience in our hospital and figures from the Home Accident Surveillance System indicate that the number of accidents involving baby walkers is increasing. Safety specifications issued by the British Standards Institution are rarely, if ever, met in full by manufacturers. Home accident prevention measures have been shown to be of limited benefit. We advocate more stringent implementation of safety features in the design of baby walkers.

**Patterns of walker use and walker injury.**

Rieder-MJ; Schwartz-C; Newman-J  
Pediatrics. 1986 Sep; 78(3): 488-93  
ENGLISH  
UNITED-STATES

Infant walkers have been described as a cause of unexpected trauma in the first year of life. We conducted a prospective study to determine the mechanism and pattern of walker injuries presenting to an urban pediatric teaching hospital. We also studied the patterns of walker use. All injuries sustained by infants in baby walkers during a 1-year period were reviewed. The 139 injuries included 29 fractures. The most severe injuries were caused by falls down stairs; these falls accounted for 123 of the injuries. Stair gates were present in one third of all falls. At follow-up 2 months later, two thirds of the children had been in the walker subsequent to the injury. One third were still in the walker at 2 months after their initial injury. Less than half of the homes that had not had stair gates in place had acquired them at the time of follow-up. Baby walkers represent a cause of significant injury in the infant population; studies of warning labels and anticipatory guidance are needed.

**Head injuries related to the use of baby walkers.**

Stoffman-JM; Bass-MJ; Fox-AM  
Can-Med-Assoc-J. 1984 Sep 15; 131(6): 573-5  
ENGLISH  
CANADA

To determine what proportion of head injuries in children under 24 months of age who presented to an emergency department were related to the use of baby walkers, we reviewed the charts of 52 such children. Walkers were involved in 42% of the head injuries in the children under 12 months of age and in none of those in the children aged 12 to 24 months. All walker-related injuries, including skull fractures in three children, involved stairs ( $p$  less than 0.001). Questionnaires were also sent to all families with children aged 3 to 18 months attending a private pediatric practice to determine the prevalence of falls involving baby walkers among these children and the factors associated with such falls. Of the 152 responding families 82% reported using or having used a walker. Thirty-six percent of the families reported that their child had a fall while in a walker, with 8.8% of the falls resulting in contact with a doctor. Walker-related falls were directly associated with time spent in the walker ( $p$  less than 0.001) and with a previous fall from the walker by an older sibling ( $p$  less than 0.03). Since there is no demonstrated benefit of walkers, their use should not be encouraged, and parents should be advised of their potential danger.

**Baby walker-related injuries.**

Wellman-S; Paulson-JA  
Clin-Pediatr-Phila. 1984 Feb; 23(2): 98-9  
ENGLISH  
UNITED-STATES

A retrospective review of charts of patients with baby walker-related injuries presenting to a large urban emergency room over a 23-month period was undertaken. Ninety-seven percent of the children sustained injuries to their head or face. Sixty-eight percent of the injuries were the result of falling down steps. Twenty-two percent of the injuries required surgical or dental evaluation in addition to pediatric evaluation.

**Infant walkers and cerebral palsy.**  
Holm-VA; Harthun-Smith-L; Tada-WL  
Am-J-Dis-Child. 1983 Dec; 137(12): 1189-90  
ENGLISH  
UNITED-STATES

We studied a 1-year-old infant with spastic cerebral palsy in its early stage. An infant walker was used by the mother to amuse the infant, but the walker was observed to produce a positive support reflex, perpetuating a primitive reflex that should fade during the first year of life. The walker also prevented the infant from practicing equilibrium reactions and protective responses that should be developing during this age. Positions assumed by the infant in the walker contribute to the development of common adverse sequelae of spastic cerebral palsy: heel cord contractures, sublocations and dislocations of the hips, and pronation contractures of the upper extremities.

**Infant walker-related injuries: a prospective study of severity and incidence.**

Chiaviello-CT; Christoph-RA; Bond-GR  
Dept of Pediatrics, University of Virginia, Charlottesville 22908.  
Pediatrics. 1994 Jun; 93(6 Pt 1): 974-6  
ENGLISH  
UNITED-STATES

**OBJECTIVE.** To determine the incidence and significance of walker-related injuries in infants. **METHODS.** During a 3-year, 8-month period, all infants who were brought to the University of Virginia Pediatric Emergency Department with a walker-related injury were prospectively studied. During the emergency department visit, demographic and epidemiologic information were recorded. The annual incidence of walker-related injuries occurring in infants < 1 year of age that resulted in a hospital emergency department visit was calculated from the home zip codes of the injured patients and from the population of infants < 1 year of age living in Charlottesville and in Albemarle County. **RESULTS.** Sixty-five patients were enrolled in the study. The age distribution ranged from 3 months to 17 months, with 95% younger < 1 year old. Mechanisms associated with walker-related injuries included stairway falls in 46 infants (71%), tip-overs in 14 infants (21%), falls from a porch in 2 infants (3%), and burns in 3 infants (5%). These injuries predominantly involved the head and neck region (97%), with few injuries to the extremities (6%) and trunk (3%). Although the majority of injuries were minor, significant injuries occurred in 19 infants (29%). These injuries included skull fracture, concussion, intracranial hemorrhage, full-thickness burns, c-spine fracture, and death. After excluding the burned patients, all the serious injuries resulted from falls down stairs. The annual incidence of injuries occurring in infants < 1 year of age, related to the use of walkers, and resulting in an emergency department visit was 8.9/1000, and for serious injuries was 1.7/1000. **CONCLUSIONS.** The incidence and significance of infant walker-related injuries in infants are unacceptably high.

**Prevention strategies for infant walker-related injuries.**

Trinkoff-A; Parks-PL  
Department of Psychiatric and Community Nursing, University of Maryland School of Nursing, Baltimore 21201.  
Public-Health-Rep. 1993 Nov-Dec; 108(6): 784-8  
ENGLISH  
UNITED-STATES

The estimated number of walker-related injuries to infants increased during the 1980s, and standards for walker design safety remain voluntary with no monitoring to assess compliance. Although banning the walker has been proposed, this prevention strategy has not been employed. The most recent statistics available indicate that there were an estimated 27,804 walker-related injuries requiring emergency room attention among ages 0-4 years in 1991. Results of a



survey of parents of 3-12-month-olds indicated considerable use of walkers, with greater use among parents with lower educational levels. Reported reasons for using walkers were for the infant's entertainment, enjoyment, and containment, as well as to help infants learn to walk. The authors recommend the consideration of a series of preventive strategies according to the epidemiologic framework for injury control and prevention designed by William Haddon, Jr. These include, but are not limited to, prohibiting the manufacture and sale of the walker, mandatory standards, redesign of the walker, design of an alternative to the walker, and consumer education to reduce use and to change patterns of use.

**Use of infant walkers.** Board of Trustees, American Medical Association.  
Am-J-Dis-Child. 1991 Aug; 145(8): 933-4  
ENGLISH  
UNITED-STATES

Infant walkers are used by many parents because of the convenience they provide in keeping children occupied. Unfortunately, parents may develop a false sense of security that leads to diminished vigilance over the safety of their infant. Although most injuries that result from walkers are minor, serious trauma from head injuries, lacerations, and burns does occur occasionally. The American Medical Association recommends that physicians counsel parents on the risk of injury that can occur from the use of infant walkers and inform parents that these devices do not either promote bipedal ambulation or offer a substitute for careful parental supervision.

**The infant walker: an unappreciated household hazard.**  
Marcella-S; McDonald-B  
Wilkes-Barre General Hospital.  
Conn-Med. 1990 Mar; 54(3): 127-9  
ENGLISH  
UNITED-STATES

The potential for infant walkers to cause injury to infants was demonstrated by the results of a survey of the practicing pediatricians in the state of Connecticut. There was a significant number of severe injuries reported. In addition, seven cases of infants hospitalized at Bridgeport Hospital because of injuries sustained while using an infant walker are included. The survey indicated adequate knowledge of the apparent danger by the practicing physicians, including discussion during anticipatory guidance. Despite this knowledge and guidance, significant morbidity continues to occur.

**Walker-related burns in infants and toddlers.**  
Johnson-CF; Ericson-AK; Caniano-D  
Department of Pediatrics, Ohio State University, Columbus.  
Pediatr-Emerg-Care. 1990 Mar; 6(1): 58-61  
ENGLISH  
UNITED-STATES

During one year, four (6.5%) of the 61 children who were hospitalized for burns at a children's hospital sustained their injuries in a walker. Records from a total of nine children hospitalized with walker burns were compared to those from other hospitalized burned children. Patients who were burned while in a walker had a greater body surface area burned (11.6%) than those with burns from abuse (1.7%), neglect (2.5%), or other accidents (6.2%). A higher percentage of males were burned, and the burn patterns differed among all four groups. Seven of the nine walker burns resulted from scalds, with three scalds from hot grease. Walker-related burn patients required more physical or occupational therapy and a longer mean hospital stay. Social histories of infants with walker and other accidental burns differed from those associated with abuse or neglect. Walkers expose infants to unnecessary hazards, including potentially serious burns; their use should be discouraged.



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TRADE PRACTICES ACT 1974, SUBSECTION 65C(5) - BABY WALKERS

ADVICE

I have been asked to advise whether the *entire* class of goods known as 'baby walkers' could be regarded as goods of a '*particular kind that will or may cause injury*' within the meaning of subsection 65C(5) of the *Trade Practices Act 1974*. (If so, the Minister, by a notice under that provision, could declare them to be 'unsafe goods'.)

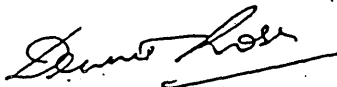
2. In my opinion, the answer is 'No'.
3. Obviously, sub-classes such as *unstable* baby walkers could be regarded as goods of such a kind. However, the question is directed at the *entire* class of baby walkers - ie. including those which are not unstable or otherwise defective. The only ground on which it is suggested that they might all come within subsection 65C(5) is that injuries result from the use of baby walkers even where there is no instability or inherent weakness. For instance, babies can propel themselves across rooms in less time than some parents or other supervisors ('the supervising adults') expect, and consequently the babies sometimes fall down steps before the supervising adults can prevent it. Other injuries occur when a child in a baby walker is able to reach dangerous objects that would be out of reach if the child were crawling or seated on the floor.
4. In many legal contexts concepts of 'causation' are not easy to apply - as is shown, for example, by Hart and Honoré, *Causation in the Law* (1959). In a statutory context such as the present, the questions must be determined according to the 'ordinary and natural' meanings of the words used.
5. The particular concept in section 65C(5) is that of injuries 'caused' by *goods* (as distinct from being 'caused' by *conduct* or by *events* other than conduct). A clear example

of injuries 'caused' by goods would be those resulting where the goods have spontaneously exploded. Obviously subsection 65C(5) is not limited to those kinds of goods: it extends to goods where the *use* or other handling of them will or may give rise to injury.

6. Injuries to babies can be 'caused' by goods where, in being used or handled, the goods 'perform' in ways that cannot reasonably be expected by the supervising adult. For instance, if a toy breaks up unexpectedly into small parts that can be swallowed, any injury resulting from the swallowing can properly be said to have been 'caused' by the toy (as well as by the breaking and swallowing). Likewise, if a toy gun fires pellets with a force not reasonably expected by the supervising adult, injuries occurring as a result of some use that would not have taken place if the adult had known of the relevant feature could be said to have been 'caused' by the gun and not merely by the handling of it.

7. But a properly made, stable baby walker does not seem to come into this category: it performs exactly as expected. For instance, the supervising adult can reasonably be expected to foresee that, if the child is the only source of motion, the wheels will allow mobility to the extent that the child is capable of moving them and, on a flat surface, only to that extent. The fact that some babies propel themselves faster than some supervising adults expect is not a sufficient basis for holding that the injuries are 'caused' by the baby walkers rather than by inadequate supervision. Similarly, if a baby is enabled to reach dangerous things that are not otherwise attainable, and it thereby suffers injury, the injury is not 'caused' by a baby walker, any more than it would be 'caused' by a chair or sofa in similar circumstances.

8. I do not see any other basis on which the entire class of baby walkers could be regarded as coming within subsection 65C(5). In particular, the fact that injuries frequently occur as a result of their use is not enough to bring baby walkers within subsection 65C(5). (If it were enough, ordinary motor vehicles would come within the subsection. This would not, in my opinion, be an ordinary and natural interpretation of the provision.) If injuries occurred in a high *proportion* of uses, the position could be otherwise but I do not understand this to be the case with baby walkers.



DENNIS ROSE QC  
Acting Solicitor-General

20 December 1993



Chief General Counsel

94 603749

**TRADE PRACTICES ACT 1974, subsection 65C(5) - BABY WALKERS**

**FURTHER ADVICE**

I am asked for further advice on the question whether it is legally possible for all kinds of baby walkers to appear to the Minister to be "*goods of a particular kind [that] will or may cause injury*", within the meaning of subsection 65C(5) of the *Trade Practices Act 1974* which provides:

"(5) Subject to section 65J, where it appears to the Minister that goods of a particular kind will or may cause injury to any person, the Minister may, by notice in writing, published in the *Gazette*, declare the goods to be unsafe goods."

2. On 20 December 1993 I advised that, on the information then made available to me, I did not think it could be said of all baby walkers that they may "cause injury" within the meaning of subsection 65C(5). I concluded with the remark that the position could be otherwise if injuries occurred in a high *proportion* of uses but that this did not then appear to be the case. You have now provided material obtained from the National Injury Surveillance Unit (NISU) of the Australian Institute of Health and Welfare, and have sought my views in the light of that material.
3. The question does not concern baby walkers that are inherently defective - eg liable to break, or unstable on a flat surface. Nor does it concern any alleged harmful effects of the ordinary use of baby walkers on the physical development of children. The question is limited to injuries that may result, for example, when baby walkers topple down steps, or when the babies in them are able to reach dangerous objects (eg heavy ornaments on shelves, or pots of boiling water on stoves) that would have been beyond their reach if they had been only crawling or sitting on the floor.

4. In my opinion, while it is arguable that the Minister could legally be satisfied that all kinds of baby walkers "will or may cause injury" (see paragraph 17 below), I do not think the courts would be likely to accept the arguments.

### Reasons

5. The NISU information does not include any information as to the proportion of the number of injuries involving baby walkers during any period to either the number of baby walkers in use during that period.

6. What the NISU has provided is a comparison of the risk of injuries involving baby walkers with the risk of injuries involving other nursery products such as cots, high chairs, prams and playpens. It concluded that baby walkers "carry a risk of injury which is considerably elevated compared to other nursery products" (p. 6). However, I am unable to see any relevance in that comparison to the legal issue before me.

7. NISU was unable to provide any information on the second question put to it, namely, whether the rate of injury among babies in baby walkers is higher than that among other babies.

8. However, NISU did make a number of general comments about the use of baby walkers and argued that these support a conclusion contrary to my December advice.

9. First, NISU suggests (p. 5) that, according to my December advice, bans can only be put in place once a product has been shown to carry a high comparative risk and that this is an unacceptable interpretation. However, I did not suggest at all that subsection 65C(5) has that meaning. Many of the examples that I mentioned concerned goods that could have been banned under subsection 65C(5) even before a single injury had occurred.

10. NISU also suggests that I seemed to imply that only "physical failure" can make goods likely to cause injury whereas NISU believes that "design failure" is just as serious. However, I did not imply that subsection 65C(5) is limited to cases where goods break up or have some other "physical failure" (note eg my example of a toy gun that is designed to, and does, fire pellets faster than could reasonably have been expected).

11. NISU has given its own examples of "design failure". The first is products that are not within the capability of the user. NISU mentions the fact that drivers' licences are not

issued to people under 16. However, this is surely not intended to suggest that ordinary motor vehicles could be banned under subsection 65C(5) on the ground that their being driven by people under 16 could often result in injuries. NISU's other example of "design failure" is toys that have small parts that can become detached, but this was one of the examples that I mentioned since the causal factor is something inherent in the goods themselves.

12. As to "design failure" in the case of an ordinary stable baby walker, NISU comments that it is "specifically target(ed) ... at an age group that does not have the developmental capabilities to use it safely" (NISU, p.6). For instance, babies aged between 6 and 12 months are incapable of understanding possible dangers (eg from stairs, or from hazardous objects that are within reach). A baby walker can be propelled at speeds of up to 1 metre per second - thus allowing the child to accelerate to speeds that carry "risks which cannot be realistically managed by supervision" NISU, p. 6). The speed "outpaces the reaction of the occupied parent" (FBCA Discussion paper, 1993, p. 9). Moreover, it seems inevitable that many parents will not give the children sufficiently continuous attention to prevent the injuries.

13. The essential legal question is whether it can be said that the product itself will or may "cause injury" - ie whether it is the sole cause or one of several causes. (Subsection 65C(5) does not, in my opinion, require that the goods be the sole cause of the injury; cf *Minister of Pensions v Chennell* [1947]1 KB 250 at 252-253 per Denning J; and generally, Hart and Honore, *Causation in the Law*, 2nd ed 1985.)

14. Little guidance is provided by the decided cases since, apart from questions involving inherently defective goods, they concern the question whether some conduct or event, rather than an object, is a cause of the injury or loss. Clearly a simple test of a cause as some thing or event "but for" which the injury would not have happened is inadequate for the purposes of subsection 65C(5) since otherwise a ordinary motor vehicle could be said to "cause injury" simply because the injury would not have happened "but for" the existence of the vehicle. In the context of the common law of negligence the test is not a simple "but for" test but rather one of "common sense" based on "experience" (*March v Stramare (E & MH) Pty Ltd* (1991) 171 CLR 506, at 518 per Mason CJ with whom Toohey and Gaudron JJ agreed; 522 per Deane J with whom Gaudron J agreed) and a similar approach would, in my opinion, probably be taken in the present matter.

15. Applying that approach to the circumstances mentioned in paragraph 3 above, I turn first to the fact that a baby walker raises a child to a height enabling it to reach hazardous

objects. In my view, the baby walker clearly cannot be regarded as a cause of the resulting injury. As I said in my previous advice, one might as well argue that cushions are likely to cause injury because, if left on the floor, there is a risk that babies will climb on them and pull things down from shelves that they could not otherwise reach. The sole cause of the injury in such a case is the conduct of the parent or other supervisor ('the parent') in putting the baby in the device from which it can reach otherwise unattainable objects, or (what amounts to the same thing) the parent's failure to move the objects out of the reach of the child.

16. However, the position is not so clear where the baby walker is propelled too fast for an intermittently attentive parent to prevent it from falling down stairs. Clearly the failure of the parent to stop the child's momentum, and the parent's conduct in allowing the baby walker to be used in the vicinity of unobstructed stairs are causes of the injury. The question, however, is whether the baby walker itself is also one of the causes.

17. It is arguable that, because of its height, a baby walker can be regarded as one of the causes of injuries where it topples down stairs and the baby would have suffered no injuries, or less serious ones, if it had merely fallen while crawling. It is also arguable that, because of its capacity for speed, it can be regarded as one of the causes of injury where, if the child had been placed on the floor to crawl around instead of being put in the baby walker, it would not have reached the steps during the period of parental inattentiveness.

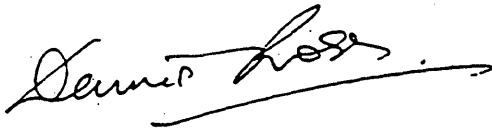
18. However, in my opinion the carelessness of a parent in placing the child in the baby walker in an area without any barrier between it and adjoining stairs should, as a matter of "common sense" and "experience", be treated (apart from the use of the baby walker) as the only cause of the injury. In such circumstances, baby walkers seem to me to be no different from tricycles in similar circumstances. Thus where a parent allows a young child to use a tricycle near stairs, a sloping path or a road and injuries result, they are obviously caused by the use of the tricycle and the parent's carelessness. But I do not think they are also caused by the tricycle itself so as to enable tricycles to be banned under subsection 65C(5). As I have emphasised, it is not enough that the injury would not have occurred "but for" the tricycle.

20. It is true that, in the case of tricycles, the children have reached ages at which they can be taught to some extent to understand the risks and take evasive action, whereas baby walkers are designed for use by children at too early an age for them to be able even to perceive the risks (cf NISU, pp. 5-6). But I do not think that this difference justifies the conclusion that tricycles cannot "cause injury" within the meaning of subsection 65C(5)

but that all baby walkers may do so. Both baby walkers and tricycles are sold for use under parental supervision and the risks involved in their use near stairs, or near hazardous objects on shelves or the like, are obvious. In each case it is reasonably foreseeable that many parents will be guilty of the carelessness that allows the accidents to occur.

21. It may well be that tricycle accidents of relevant kinds are much less frequent than similar accidents with baby walkers. But I do not think that this a ground for distinguishing between tricycles and baby walkers in deciding whether the products themselves may "cause injury" within the meaning of subsection 65C(5). It would seem only to indicate that the rate of parental carelessness, as a cause of these kinds of accidents, is lower in cases of tricycles than in cases of baby-walkers. It is hard to see that any characteristics of the products themselves are relevant to any such difference in frequency.

22. For these reasons, if there is to be a power under subsection 65C(5) to ban all baby walkers on the grounds mentioned in paragraph 2 above, the legislation will need to be amended.



DENNIS ROSE QC  
Chief General Counsel





HEALTH & WELFARE  
NATIONAL INJURY SURVEILLANCE UNIT

APPENDIX No 11

Mr J Wunsch  
Director Product Safety  
Federal Bureau of Consumer Affairs  
Lionel Murphy Building  
50 Blackall Street  
Barton  
ACT 2600

Dear John,

I am responding to your letter of June 20 regarding baby walkers.

Your letter suggests two questions which you need answered. First, whether baby walkers present a higher level of risk than other nursery products. Second, whether the rate of injury among users of baby walkers is higher than that for non users.

In order to answer your first question, I have used ISIS data to undertake a comparison of the risk of injuries related to baby walkers compared to other nursery products. A total of 12,360 injuries to children aged from 6 to 12 months were extracted. Of these 631 involved baby walkers. A review of product related factors showed this to be the highest single product category for this age group. In order to provide a fair comparison, I selected 7 other nursery products. These were the five next most frequent product categories: high chairs, strollers, changing tables, prams and cots, and two products used for 'child minding': baby exercisers and playpens.

The ISIS system is a sentinel collection. It is not possible to calculate actual injury rates as the population served by contributing hospitals is unknown. The population served is however constant across products (e.g. baby walkers, cots, prams etc.). The number of injuries for each product can be viewed as an unbiased and the ratio of these counts( say for baby walkers and cots) as an unbiased estimate of the relative frequency of injury.

ISIS hospitals do not constitute a representative sample of Australian hospitals. The figures therefore do not represent an estimate for Australia. The sample of cases is large(N=12360) and therefore sampling errors would be small. There is also no indication that characteristics of the hospitals contributing data would lead to biased

results. The results presented therefore are considered appropriate for guiding national policy.

Your second question presents some difficulties. First there is no data available to measure the injury rates of children exposed to baby walkers and those not. Answering this question would require an expensive, time consuming and detailed study to properly address complicated issues of interaction effects between population characteristics and product use. Second, there is a philosophical problem. Estimation of the comparative rate of injury would present a situation where it could be proposed that nothing be done if the overall rate of injury of those exposed to baby walkers was not significantly elevated. This would not be sensible. It may be that baby walker users have some other characteristic which gives them a comparatively low rate of injury from other causes and that the excess of injuries due to baby walkers brings them up to the nominal population injury level. Action to reduce baby walker injuries would still be justified, because it is a removable cause, regardless of the total injury level among the user group.

The following sections address your first question.

**Results**

Table 1 presents the number of injuries and admissions from each product category and the ratio of baby walker injuries and admissions to those due to each other product. Table 2 covers similar ratios for each month of age. The ratios refer to the ratio of baby walker injuries or admissions to those by each other product. For example in Table 1 there were 2.2 times as many injuries and 2.6 times as many admissions related to baby walkers as there were related to high chairs. In tables 2 there were 9.1 times as many injuries from baby walkers as there were related to cots among 7 month old children 6.9 times as many among those 8 months old and 8.3 times as many among 9 month olds. The higher the number the greater the relative harm ratio of the baby walker.

Table 1  
**Numbers Of Injuries And Admissions And Ratio Of Baby Walker Related Injuries To Other Nursery Products Children Aged 6 To 12 Months**

	All injuries N	Admissions N	All injury Ratio	Admission Ratio
Baby Walker	631	110	1.0	1.0
High Chair	285	42	2.2	2.6
Strollers	218	29	2.9	3.8
Changing Tables	195	27	3.2	4.1
Prams	185	23	3.4	4.8
Cots	127	12	5.0	9.2
Baby exercisers	30	10	21.0	11.0
Playpens	12	1	52.6	110.0
Total	1683	254		

Source *ISIS NISU 1994*

Table 2  
**Ratio Of Baby Walker Injuries And Admissions To Those Related To  
 Other Nursery Products By Age In Months**

	Age in months						Total
	6	7	8	9	10	12	
<i>All injuries</i>							
Baby Walkers	1.0	1.0	1.0	1.0	1.0	1.0	1.0
High Chairs	2.7	4.2	4.6	2.8	1.8	0.5	2.2
Strollers	2.5	3.7	7.5	3.7	3.7	0.6	2.9
Changing Tables	1.8	3.1	3.5	5.1	3.5	1.5	3.2
Prams	2.7	3.4	5.3	4.3	3.5	1.2	3.4
Cots	6.4	9.1	6.9	8.3	5.5	0.8	5.0
Baby exercisers	5.8	9.8	158.0	44.0	*	10.5	21.0
Playpens	*	118.0	79.0	33.0	44.0	21.0	52.6
<i>Admissions</i>							
Baby Walker	1.0	1.0	1.0	1.0	1.0	1.0	1.0
High Chair	4.0	6.4	6.5	3.3	1.7	0.3	2.6
Strollers	4.0	10.7	6.5	3.3	6.3	0.8	3.8
Changing Tables	4.0	6.4	3.7	3.3	3.8	3.0	4.1
Prams	6.0	10.7	8.7	4.3	4.8	0.8	4.8
Cots	12.0	16.0	5.2	13.0	19.0	1.5	9.2
Baby exercisers	3.0	10.7	*	*	*	1.5	11.0
Playpens	*	*	*	*	19.0	*	110.0

\* Zero count in denominator. Cannot be calculated.

The above estimates do not take into account the relative frequency of use of the products. There are no detailed data on the length of time to which children of this age are exposed to each product. Ownership by households where there was a child under the age of one year was estimated for Melbourne by the Australian Bureau of Statistics for three products, baby walkers, prams and strollers and high chairs.<sup>1</sup> Baby walkers were further assessed as being in use or not in use. If it is assumed that ABS findings for Melbourne apply to the population from which the ISIS cases came, then it is possible to derive exposure adjusted frequency ratios. The ownership of high chairs and prams and strollers was higher than for baby walkers, therefore the frequency ratio has increased. Ratios have been adjusted by the ration of baby walker ownership to ownership of the other products. (Table 3) When allowance is made for the proportion of baby walkers not in use, the ratios increase further. This is based on the assumption that all prams/ strollers and high chairs were in use and only 20% of households had baby walkers in use based on ABS data..

<sup>1</sup> Australian Bureau of Statistics, *Safety in the Home Melbourne* ABS Melbourne 1992 Tables 18, 24,28.

Table 3  
**Baby Walker Relative Frequency Ratios Adjusted For Level Of Ownership**

	<i>All Injuries</i>			<i>Admissions</i>		
	Un-adjusted ratio	Ratio adjusted for ownership	Ratio adjusted for ownership and baby walker use	Un-adjusted ratio	Ratio adjusted for ownership	Ratio adjusted for ownership and baby walker use
Pram or stroller	1.6	5.1	8.0	2.1	6.9	10.8
High chair	2.2	6.1	9.5	2.6	7.2	11.2

It is possible that the high relative frequency of baby walker injuries may be due a number of hours of use of baby walkers rather than a high risk per hour of use. If it is assumed that each of the product types has the same risk per hour of use as baby walkers then the number of hours use required to produce an equal number of injuries and admissions as baby walkers can be estimated for three nursery products. The assumptions made and results are shown in table 4. The table shows that even low hours per day use of baby walkers requires almost constant use of the other products examined to result in the same number of injuries. This suggests that an assumption of equal risk per hour of use is unlikely to correct.

Table 4  
**Estimated number of hours of exposure required for products to produce an equal number of injuries as baby walkers.**

	Ownership Proportion	Observed relative frequency	Hours use required equivalent to 1 hours use of baby walker	Hours use required equivalent to 2 hours use of baby walker
<i>Injuries</i>				
Pram or stroller	0.97	1.6	8	16
High chair	0.81	2.2	11	22
Cot	1.0	5.0	25	50
<i>Admissions</i>				
Pram or stroller	0.97	2.1	10.5	21
High chair	0.81	2.6	13	26
Cot	1.0	9.2	46	92

*Note: Calculations are based on Melbourne estimates of baby walker use. 1*

### **Discussion.**

The data clearly show that baby walkers have a substantially higher risk profile than other nursery products. This will be discussed more fully below. It is necessary to say however that the legal opinion from the Solicitor General enclosed with your letter, which calls for such a risk comparison, carries with it some difficulties. If bans are only to be put in place when a product has been shown to carry high comparative risk, it is necessary for a large number of persons to be injured in order to provide the grounds for the ban. A public health point of view holds that a preventive approach should be taken. Products should be examined to determine if there is anything about their design which could be changed to prevent injury. It would be patently ridiculous for example, to allow a product painted with an arsenic based die onto the market until there had been sufficient deaths to show it was dangerous. Just as knowledge of toxicology can be used to avoid this hazard so can knowledge of child development and ergonomics be used to avoid hazardous designs.

A proactive approach to product safety management requires that products be designed to minimise the chance of injury. Action should therefore be taken to match the design to the user in a way which prevents injury..

This analysis will therefore consider both the comparative risk case and undertake an assessment of design problems with baby walkers.

### *Comparative risk.*

Baby walkers show a much higher level of risk than other nursery products. It should be noted that both prams strollers and high chairs have design and safety harness problems which require attention and which, if rectified, would result in an increase in the measured relative risk of baby walkers. The highest relative frequencies of injury and admission for baby walkers are in the age groups, seven to nine months. These are the main age groups targeted for baby walker sales. In the absence of detailed exposure information it is impossible to judge whether this is due to increased exposure at these ages. While detailed exposure data is lacking, the estimates of relative frequency show such a marked excess for baby walkers that it is unlikely that differential exposure would account the imbalance. In any case, the absolute and relative numbers of injuries, regardless of exposure, justify some preventive action.

### *Design difficulties.*

The Solicitor General takes a very narrow view of product failure. He seems to imply that only physical failure of the product can be the grounds for a ban. Examination of the injury patterns of baby walkers suggests that there is a design failure which is just as serious as any physical failure.

Baby walkers are targeted at children with very limited abilities. Among those children aged 6 to 12 months injured in a baby walker, in excess of 50% of injuries involved stairs or steps. This is what might be expected given the abilities of the child at that

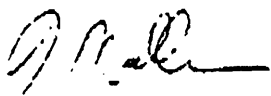
age. The task of perceiving a change in level, assessing the risk and responding appropriately is almost certainly beyond the capability of such young children<sup>2</sup>

Society already has recognised the need to prevent access to products which are not within the capabilities of the user. For example, driver's licences are not issued until sixteen years of age in any state and there is a move to introduce a uniform 18 year old limit. Small parts in toys are a recognised hazard and labelling warns parents not to provide access to such toys among children under three years of age. The paradox of the baby walker is that it specifically targets a product at an age group that does not have the developmental capabilities to use it safely and by the time perception improves to the point where children can safely use a baby walker, they no longer need it. It can therefore be argued that a case could be made under Trade Practices Act Clause 65(C) that injuries are caused by the product in that its design fails to adequately take into account the developmental abilities of the targeted user.

A product which does not take into account the developmental abilities of the prime user and which moves at speeds of up to 1 metres per second<sup>2</sup>, which increases the kinetic energy potential of any impact by raising the heaviest part of the child, the head, above standing height and allowing it to accelerate to high speeds carries risks which cannot be realistically managed by supervision. Changes to the home environment to stop access to stairs and steps and other dangerous situations would need to be extensive in many homes and would cause difficulties for other residents and would be likely to fail as they would require repetitive human action to maintain the protective environment.

### Conclusion

Baby walkers carry a risk of injury which is considerably elevated compared to other nursery products. Baby walkers fail to take into account the developmental abilities of the prime user in a way which directly contributes to injury. The design of the baby walker can therefore be considered faulty and action under the Trade Practices Act clause 65(C) may be warranted.



Jerry Moller  
Assistant Director Injury Information Services  
26 July, 1994

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<sup>2</sup> Valsiner J, 1985 Theoretical issues of child development and the problem of accident prevention. In Garting T and Valsiner J, (eds) *Children within environments* (pp13-36) New York: Plenum

<sup>3</sup> Federal Bureau of Consumer Affairs Discussion paper Trade Practices Act 1974: Division 1A of part V: Consumer Product safety: Need for mandatory action: *Baby Walkers* Canberra FBCA 1993. pg 9

**REPORT OF PROCEEDINGS BEFORE**  
**REGULATION REVIEW COMMITTEE**

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**INQUIRY INTO THE FAIR TRADING (PRODUCT SAFETY STANDARDS) REGULATION 1995  
RELATING TO BABY WALKERS**

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**At Sydney on Thursday, 23 November 1995**

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The Committee met at 9.30 a.m.

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**PRESENT**

**Mr D. J. Shedden (Chairman)**

**Legislative Council**

**The Hon. J. F. Ryan  
The Hon. Janelle Saffin**

**Legislative Assembly**

**Ms D. Beamer  
Mr A. J. Cruickshank  
Ms J. G. Hall  
Mr R. J. W. Harrison  
Dr E. A. Kernohan  
Mr B. W. Rixon**

**DAVID IAN CATT**, Director, Legal and Policy, and Chairman, Products Safety Committee, Department of Fair Trading, of 72 Cedarwood Drive, Cherrybrook,

**ROBERT LESLIE LAUGHTON**, Manager, Products Safety Standards Branch and Executive Officer, Products Safety Committee, Department of Fair Trading, of 33 Corsair Crescent, Mount Pleasant, and

**ALEKSANDER SZANN**, Project Manager, Standards Australia, of 522 Bourke Street, Surry Hills, affirmed and examined:

**CHAIRMAN:** The regulation currently before the Committee was considered by it at its meeting on 16 November 1995. At this meeting the Committee resolved to invite representatives from the Federal Bureau of Consumer Affairs; a person with orthopaedic skills; an importer of baby walkers; a retailer of baby walkers; and a person with mechanical engineering experience to seek their views in relation to baby walkers so that the Committee can determine whether it should make a report to Parliament.

I should indicate the way the Committee intends to proceed. Firstly, it will invite the Chairman and staff of the Products Safety Committee of the Department of Fair Trading to give evidence. The Committee members will then ask questions of those witnesses, including questions on the new regulation. I will then invite the representatives of the Department of Health to advise on developments, including accident statistics, in relation to the use of baby walkers. Then will follow questions from Committee members. I intend to keep the proceedings as informal as possible and provide opportunity for discussion between persons. During the general discussion I would request that any witnesses wishing to make a statement should identify themselves before doing so.

Did each of you receive a summons issued under my hand in accordance with the provisions of the Parliamentary Evidence Act 1901?

**ALL WITNESSES:** Yes.

**CHAIRMAN:** In 1992 the Products Safety Committee held an inquiry into baby walkers but their report was inconclusive on the question of whether baby walkers are inherently dangerous. I understand the Minister requested Standards Australia to prepare a design safety standard to put this issue beyond doubt. In fact the Products Safety Committee, in its report of 21 June 1993, says at paragraph 7.5 that, in the absence of an appropriate standard, it is difficult to carry out a safety assessment on baby walkers. Why has not a design standard been developed?

**Mr CATT:** It is true that the Minister of the day did write to Standards Australia following her consideration of the report of the Products Safety



Committee, and in due course the Minister did receive a response from Standards Australia which outlined their history of involvement with this particular product. The bottom line of the correspondence was that they thought that the development of a voluntary standard would be counter-productive.

They did make reference to the question of the possible development of a design standard and said that that could possibly be pursued with a body that had specialisation in design. It certainly was not indicated that that was a role for Standards Australia, and that is where the matter rests. Neither the Minister nor the department has pursued the question of a design standard, essentially because other events may have overtaken that particular proposition.

**CHAIRMAN:** What initiatives have been taken to bring in a national standard for baby walkers?

**Mr CATT:** I guess the best starting point is the discussion paper that was issued by the Federal Bureau of Consumer Affairs in, I think, August 1993. That provided essential background for the identification of a number of options. I think one of the options was the possible development of a national standard, possibly along the lines of the then conditional order that existed in New South Wales under the Fair Trading Act. But it became apparent that the favoured approach of the Commonwealth was a possible ban on the product, and that was something that the Commonwealth pursued and had difficulty with implementation because of the legal advice that they had received. So the question of a national mandatory standard really has not been to the forefront in recent consideration of this matter.

**Mr RIXON:** Isn't that statement contradictory, though? You were saying that the Commonwealth decided to ban the product but also decided to do nothing about bringing in a standard.

**Mr CATT:** The question was in relation to the development of a national standard. By that, I took it that you meant some sort of standard under the Trade Practices Act. The Commonwealth, to my knowledge, has not actively pursued that. The fact of the matter is that in New South Wales, under the Fair Trading Act, there has been a product safety standard in relation to baby walkers since the making of the regulation in 1994. But that does not have national application, obviously.

**Mr CRUICKSHANK:** Did you call it a product safety standard?

**Mr CATT:** Correct.

**Mr CRUICKSHANK:** Does that mean that the item does not fall to bits, or does it mean that it is a well-designed baby walker?

**Mr CATT:** It means neither of those things in this particular case. The gist of the regulation is that there must be a warning affixed to the product, and when the product is supplied it must be accompanied by information which is intended to put the purchaser on notice that if the product is to be used safely various matters must be observed.

**CHAIRMAN:** Mr Szann, do you have any comments on the first two questions that I asked?

**Mr SZANN:** Unfortunately, I am not privy to the conversations between Ministers and the Chief Executive. The only comment I would like to make is that I am not sure whether the Committee is aware how standards are prepared. But, ordinarily, what happens is that we are approached by a request either through the Products Safety Committee or an organisation or even an individual to prepare an Australian standard for a particular item - in this case, it could be the baby walkers.

We then review that, and if we believe that we will have some substantial response in terms of getting assistance in the preparation of that document, we will issue a questionnaire to elicit people to provide information with regard to what they feel should be included in that sort of standard and whether they would actually participate.

What then normally happens is that, if we do get a response, and if we get a positive response to the effect that we should be preparing a standard, the project is then handed over to someone like me, who then organises a committee of all the interested parties, including retailers, manufacturers, importers, consumer organisations, nursing mothers associations, and invite all those organisations to come onto that committee to prepare that standard.

The problem we have with the preparation of a consensus standard is that we actually have to have a substantial number of diverse interests represented on that committee. I believe that Standards Australia possibly felt that we would not get a positive response in terms of the preparation of the baby walkers, predominantly because when we prepare standards we prepare things such as product standards, which in this case would be the baby walker, from a safety viewpoint or from a labelling viewpoint, and we have not had any evidence presented to us that I am aware of to indicate that the item per se is a hazard.

**Mr RIXON:** Let me clarify this. When you are talking about standards you are talking about the physical quality of the thing, to make sure it does not fall to bits or have sharp points that stick into somebody's eye. Do you also look at the safety tip-over, hit your head on the cement factor as well?

**Mr SZANN:** We look into all possible factors which would affect the product itself. If we prepare a safety standard, such as for instance a safety standard

for children's toys, it just looks at the safety issues. We do not care how it breaks, provided that it does not break in such a way as to create a hazard. Now, if we were preparing a standard for baby walkers from that sort of perspective, we would be looking at it from the viewpoint of ensuring that it did not create a hazard for the child; so that, if a baby was put into the product, it would not actually present through any structural failure and things of that nature.

Obviously, tip-over and stability would be an issue, as would possibly even the wheels, turning and mobility. We would be looking at it from that sort of perspective, but from my knowledge we have not had any indication that there was a problem with any of those features.

**Mr RIXON:** Why has not such a standard been created? Is it because somebody has not seen it was necessary, or because somebody has said that before much longer these things would be banned so it would be a waste of time creating a standard? What do you think is the real political reason that you have not at this stage actually set a standard?

**Ms HALL:** If I could say it is probably not your role to comment on the role on the political reason.

**Mr CRUICKSHANK:** Mr Chairman, Mr Rixon is quite within his right to ask his question.

**Mr RIXON:** I am talking about the in-the-community political reason.

**Ms HALL:** I still think that it is not his role to talk about the political reason. I think it is important to comment on the reason, but I do not think it is important to add a personal perspective.

**Mr RIXON:** I am talking about the social political. I am not talking about the party political. I am talking about the community attitude.

**CHAIRMAN:** We will let Mr Szann respond in the manner he feels he should.

**Mr SZANN:** The reason - and I do not think it is a political reason, but a rational reason - why Standards have believed or were under the impression that we do not need to prepare a standard is because normally standards are prepared to rectify some sort of problem. To date we have not had any evidence that the baby walker per se is a hazard.

**Mr CRUICKSHANK:** Nobody has ever suggested that to you? is that what you are saying?

**Mr SZANN:** No-one has actually given us any evidence to support the opinion that the baby walkers collapse or are structurally unsound and damage the child.

**Mr HARRISON:** What I remember of the baby walkers is that the wheels are splayed, and it would be very difficult to tip them over without coming to the edge of a set of stairs and the baby tumbling down the stairs. The baby could do that anyway, even if it was not in a baby walker.

**Mr CRUICKSHANK:** That is where the trouble starts, at the stairs.

**Mr HARRISON:** The parent or guardian must take precautions to see that they do not have a fall down stairs.

**Mr RIXON:** I asked the question because I wanted very clearly the answer you just gave, to see whether that was the answer or not.

**Mr SZANN:** It is almost analogous to a child being put on a tricycle and the child rides the tricycle down the driveway and onto the road. It is not the fault of the tricycle which creates the hazard.

**CHAIRMAN:** Mr Szann, there are numerous makes of baby walkers. Do you believe they all reach the required standard?

**Mr SZANN:** I cannot really comment on that because I have not done the research, but we certainly have not been provided with any information, that I am aware of, that any of the baby walkers that I am aware of present a potential hazard.

**Mr CRUICKSHANK:** The statement in this document we have is a little contradictory. It says that "Most injuries in baby walkers were because the child in the product tipped over. The most serious injuries were near unguarded staircases." That is a bit of a contradiction. If they are going to tip over, that is one thing; but, if they are going to tip over near a staircase, that is like getting to the end of the driveway and getting onto the road.

**Mr HARRISON:** It is like falling down the stairs in a wheelchair. Of course, it is going to tip over.

**Mr JEFFERIS:** Mr Chairman, through you. Mr Catt, part of the Committee's charter is to examine the adequacy of the regulatory impact statement in terms of the requirements of the Subordinate Legislation Act. Could you explain to the Committee how option one, which was the remaking of the regulation with a warning notice, was preferred having regard to the fact that no studies had been conducted as to the benefits of warning notices?

**Mr CATT:** The regulatory impact statement does identify the costs and benefits of all the options, including option one. It speaks for itself. I guess it is a judgment for the reader as to whether the reader is persuaded by the document. None of the submissions that we received actually took issue with the detail of the document, but obviously there were a range of views as to which option was the preferred option.

**Mr JEFFERIS:** I am not so much directing that to the Products Safety Committee as to the department, which prepared the regulatory impact statement. But in that regulatory impact statement it says that because the warning notice was introduced in 1994 there has not been adequate time to assess the impact of it. So, how would the regulatory impact statement have reached the conclusion that the preferred option was to proceed with a regulation the impact of which had not been assessed?

**Mr CATT:** Certainly the regulatory impact statement does make that comment. I think it is a question of making judgments about the available options. The statement does indicate that suppliers had accommodated themselves to the regulation that commenced in 1994 and that, from the point of view of business, additional costs would be incurred if the regulation were varied. I think it is a reasonable proposition for it being said that it was too early to assess the impact of the warning notice and requirements of instructional literature. Even in the longer term it is very difficult to assess the impact of labelling requirements, but that is not to say that it cannot be a beneficial strategy in net terms.

**Mr JEFFERIS:** Mr Chairman, could I ask one further question.

**CHAIRMAN:** Certainly.

**Mr JEFFERIS:** In 1976 your committee recommended that there be a cautionary notice attached. It reads: "Caution. Babies can move freely in this product. Maintain careful supervision. Do not allow near fires, radiators or stairways." Now, that is very close to the current notice. It has been beefed up a bit, but when you go to the current notice it says: "Warning. Avoid injuries. Babies can move fast in this walker. Never leave baby unattended. Do not allow near steps, stairs, heaters, electrical cords or hot objects." So, in effect, that warning notice has been operative for 20 years. Yet the department's regulatory impact statement says that you have not had time to assess the impact of it. Well, you have really had 20 years, have you not?

**Mr CATT:** I might ask Mr Laughton to help the Committee with that, because he has had a long involvement with product surveys strategies and methodologies. So, if the Committee is happy for that to be done, I will ask Mr Laughton, who is the manager of the Products Safety and Standards Branch of the department, to answer your question.

**Mr LAUGHTON:** I would say firstly that I am in charge of the area that actually monitors the movement of baby walkers throughout the market-place. To answer your question, there is a distinct difference between the two warning labels. The first warning label did not have emphasis on what the danger was. That earlier warning label does not tell you why you should prevent kids from getting near stairs, etc.

If you look at the latest warning - and we have had a bit of experience with educating consumers over particularly the last five years, which has been our focus - the first words in that warning is "Avoid injuries". That was the main message. You find from experience that people need to know the message very quickly. They might not read to the end of that caution, but they have at least read "Avoid injuries". That was the important aspect of that.

The other thing I might point out is that in the early days of that original conditional banning order we found that there was 66 percent non-compliance with that labelling in the market-place. So the department was not in a position to understand whether or not the message was getting across to the user of the product. Another important aspect of the new regulation is that the new regulation requires that more detailed information be provided with the baby walker, to tell people how to use them, how to collapse them, and how to adjust them, etc. That is an exact copy of the Canadian standard, which I understand is voluntary there. So that is the position with the labelling.

**Mr RIXON:** When you say that 66 percent did not comply with that labelling in the market-place, was that a particular brand that did not comply?

**Mr LAUGHTON:** No, that was across the board.

**Mr RIXON:** How were you able to assess that? Was it a particular group that was not complying, or was it a particular shop, or what?

**Mr LAUGHTON:** It was a limited survey done within the market-place. It was quickly carried out to get some idea on the acceptance of that prior warning notice.

**Mr RIXON:** What I was getting at is that, in general, the group that is manufacturing these sorts of things will either put the warning label on or it would not. Were you not able to assess or find out from that survey who was putting the label on and who was not?

**Mr LAUGHTON:** No, not really. You will find that at the time the survey was carried out the market-place was changing very rapidly. It is still changing. Around that time we found that the discount type of shop was coming in, and there were very cheap baby walkers coming into the market-place at that time. So that

was a very popular item then. When that original banning order was made, you would buy a baby walker from a major retailer; you would not go to a little discount store down the road, as you can now - or to markets. Markets were not very big when the banning order was put in place. So we had a totally different market-place at that stage.

**Mr CRUICKSHANK:** In view of what you have said, I should inform you that our Chairman wrote to the Federal Bureau of Consumer Affairs this year and received a response which, amongst other things, said that the Federal Minister had written to the industry and consumer associations and that the response from the larger retailers - David Jones, Myer-Grace Bros, Target, Toys R Us and K-Mart - had already stopped selling the product and wholeheartedly supported the suggestion of voluntary withdrawal. The next point that arose from the responses from the industry and consumer associations was that a number of smaller retailers did not stock, and do not intend to stock, baby walkers because of the hazards associated with their use, and support voluntary withdrawal.

On the other hand, that response from the Federal Minister stated that "one consumer association supports the use of baby walkers under strict supervision, with legislation requiring 'large warning signs' pointing out the dangers associated with their use." It further advised that "one housewives association believes that baby walkers can be beneficial to the child ..." and so on. As well, there was a press release from the Federal Minister saying that "the Australian College of Paediatrics and the American Academy of Paediatrics have called for a complete ban on the sale and manufacture of baby walkers." The media release further stated that "11 children have died in the United States from baby walker accidents" and that "In Australia, there were 609 recorded incidents of baby walker-related injuries" but that there were no deaths.

With all that sort of information available, don't you think it would have been incumbent on your organisation to develop a regulatory impact statement which investigated at least some of these sorts of issues? I mean, the Federal people can find out that sort of information. I would have thought it would have served as a quite salutary warning for anybody becoming involved in preparing a regulatory impact statement for a baby walker.

**Mr LAUGHTON:** That information has been known right from day one of the committee inquiry. There is nothing new in what was said there. The paediatricians in Australia called for a ban as well. I might point out that the Americans have not done anything about baby walkers - nothing at all. New South Wales is the only place in the world that has any regulations on baby walkers.

**Mr CRUICKSHANK:** But only as far as warning signs are concerned.

**Mr LAUGHTON:** No regulation, full stop. We are the only organisation in the world that has regulations on baby walkers.

**Mr HARRISON:** It seems there is open slather or they are banned altogether.

**Mr LAUGHTON:** They do not ban them. No body in the world has banned baby walkers. There are voluntary standards throughout the world, but none are made by law.

**Mr RIXON:** It comes back to the question that Mr Cruickshank asked: Could you not have used some of that information to satisfy that part of the requirement of the regulatory impact statement?

**Mr CATT:** The regulatory impact statement, from my recollection, does in fact traverse quite a lot of the issues that are referred to in that correspondence that the Committee received from the Federal Bureau of Consumer Affairs. It certainly makes reference to the request that the Commonwealth Minister made in March this year to suppliers that they voluntarily withdraw from selling baby walkers.

**Mr JEFFERIS:** Mr Chairman, through you, could I ask Mr Catt a question.

**CHAIRMAN:** Yes.

**Mr JEFFERIS:** The regulatory impact statement shows that about 95 percent of baby walkers are coming into New South Wales through Victoria. On the basis of the mutual recognition laws, the fact that Victoria has not got any requirements such as New South Wales has, is it true to say that no supplier in New South Wales who obtained a baby walker through Victoria would have to comply with your regulation at all?

**Mr CATT:** That is correct. The effect of mutual recognition would be that a product that is imported from another State and which complies with the local requirements of that State - which in this case is zero - would not have to comply with our requirements provided that the product bore the State of origin. So that is the only requirement under the mutual recognition legislation.

**Mr JEFFERIS:** So putting that in your regulatory impact statement as a major benefit for this regulation is not a major benefit at all, when in effect, the source of the product is Melbourne. So there is no current requirement to comply with your regulation at all.

**Mr CATT:** But the regulatory impact statement goes on to contrast what is strictly the position with the practical effect, as we understand it, in the market-place, and that is that most baby walkers do comply with our requirement because



they are imported from overseas, essentially Taiwan. The suppliers are supplying to a national market, including New South Wales. Because of the efforts of the department in talking to suppliers round about the time that the 1994 regulation commenced in November, they have labelled and affixed warnings to all products supplied to the market. But, of course, the development that Mr Cruickshank referred to of major suppliers voluntarily withdrawing product is a later development, and a significant one.

**Mr JEFFERIS:** Your regulatory impact statement says that as a result of your regulation the supplier could face prosecution and that this is a significant deterrent. But, in practical terms, you would not commence a prosecution if the source of the baby walker was Victoria, would you, because you would fail, would you not?

**Mr CATT:** No. The effect of mutual recognition laws is that if it is labelled with the State of origin, that is a defence to a prosecution. So our department has developed prosecution guidelines and a whole lot of issues are to be addressed before a prosecution is initiated. But it would be possible to proceed with a prosecution, provide, as I say, the product had not been imported from Victoria and was properly labelled. Then we would be wasting our time prosecuting if they could invoke mutual recognition as a defence.

**The Hon. J. F. RYAN:** What are the consequences for the retailer of non-compliance with the standard?

**Mr CATT:** The consequences are spelt out in the -----

**The Hon. J. F. RYAN:** It is set out in section 27 of the Act. What is it likely to be? I mean, your inquiry revealed a fairly high level of non-compliance. What are the consequences for non-compliance?

**Mr CATT:** If the supplier were prosecuted by the Director General, in the name of the Director General, and if it was proved beyond reasonable doubt, then the sanction is a fine, which is in the discretion of the court. But the Fair Trading Act specifies a maximum penalty.

**The Hon. J. F. RYAN:** What is that penalty?

**Mr CATT:** I will find that in the Act.

**Mr HARRISON:** Has there ever been a successful prosecution of anyone for such an offence? Has anyone been prosecuted for not complying with the regulations on baby walkers?

**Mr CATT:** I might ask Mr Laughton to answer that.

**Mr LAUGHTON:** Under which regulation, Mr Harrison?

**Mr HARRISON:** This regulation.

**Mr LAUGHTON:** No.

**The Hon. J. F. RYAN:** Your survey revealed that there was a large measure of non-compliance, yet you decided to do nothing about it.

**Mr LAUGHTON:** That was part of the original inquiry by the Products Safety Committee. It was already decided at that stage that the regulation obviously was not doing its work, and the question was asked why wasn't it doing its work. The department then did the survey and came back with the 66 percent non-compliance data. The committee then said: You cannot measure the outcome of that because you have not been ensuring 100 percent compliance.

**The Hon. J. F. RYAN:** I have got to say that quite apart from the survey that you did for that report, surely if it comes to the attention of the Department of Fair Trading that one of its regulations, which relates to child safety, is not being complied with, a decision is made either, firstly, that this regulation is either worth and important we are going to go ahead and ensure compliance, or, secondly, we will forget it. It would appear that your approach has been to forget it, in practice.

**Mr LAUGHTON:** To go back to what Mr Catt said about prosecution, the department does work under prosecutions guidelines, and one aspect that has to be looked at and considered before a prosecution would be launched is whether or not that law is going to change or whether there is some doubt that that law will remain. That is why that decision was taken and that the retailers involved were not prosecuted. As to the rest of your question -----

**The Hon. J. F. RYAN:** The law has been remade. So, are you going to prosecute?

**Mr LAUGHTON:** If we find contraventions of that regulation - and we have ongoing surveys - it will go through the procedures of the department in identifying whether or not the retailer should be prosecuted.

**Mr HARRISON:** What do you mean by contravention? You either comply or you do not.

**Mr LAUGHTON:** That is right.

**The Hon. J. F. RYAN:** Have you people sent messages, at least to the retailers that you established were not complying with this particular standard? Have you sent them a letter saying that, look, this regulation has been remade and it is expected to be complied with? Or are there plans to do that?

**Mr LAUGHTON:** Yes, that was done. But, back in 1976 - and I was not here at that time -----

**The Hon. J. F. RYAN:** I mean as at 1 September.

**Ms HALL:** Have you made any attempts since the regulation was made to check whether it has been observed?

**Mr LAUGHTON:** Yes.

**Ms HALL:** Have you found 100 percent compliance?

**Mr LAUGHTON:** Yes. The department undertook a major survey of the market-place at Christmas of last year -----

**Ms HALL:** And there was 100 percent compliance?

**Mr LAUGHTON:** Yes.

**Ms HALL:** Are you continuing that on a regular basis?

**Mr LAUGHTON:** Yes, we are.

**Ms HALL:** Is there anything since December last year?

**Mr LAUGHTON:** Yes. We have an ongoing education campaign. We had a very large education campaign at the time that regulation was brought in. We have a list of our suppliers that deal with these sorts of products, and we mail them directly with guidelines.

**Ms HALL:** When did you last conduct a survey?

**Mr LAUGHTON:** In the last few weeks.

**Ms HALL:** And that showed 100 percent compliance?

**Mr LAUGHTON:** I have not got the results back from that yet.

**CHAIRMAN:** Mr Laughton, in basic terms, as far as you are concerned, everything is reasonably all right?

**Mr LAUGHTON:** I believe so, Mr Chairman, yes.

**Mr JEFFERIS:** Mr Chairman, could I ask Mr Catt a question through you.

**CHAIRMAN:** Yes.

**Mr JEFFERIS:** In 1992 your committee had certain prescribed questions referred to it by the Minister under section 28. Would it be correct to say that the committee decided that the sale of baby walkers should be subject to restrictions because they were a possible source of danger? I note that the findings were inconclusive on whether they were inherently dangerous. The other prescribed question being whether you should impose restrictions because they were a possible source of danger, the fact that you did impose restrictions would suggest that you had concluded that baby walkers are a possible source of danger, under section 28. Would that be correct?

**Mr CATT:** I think that is a fair enough assessment of the thinking of the committee. I mean, the committee recommended the making of a product safety standard as opposed to the making of a so-called banning order, which can be conditional or unconditional. But the processes that the committee went through certainly involved the finding that baby walkers could be a source of danger.

**Mr RIXON:** What was the actual recommendation about the standard?

**Mr CATT:** The recommendation of the Products Safety Committee inquiry was to recommend the making of a mandatory product safety standard which required the warning to be affixed to the product and the provision of point-of-sale information to the consumer so that the consumer would know how to assemble the product, how to use it safely, and what the dangers could be that are associated with the use of the product.

**Mr RIXON:** Labouring the point: what was the result of that recommendation?

**Mr CATT:** That was just one of a number of recommendations contained within the report of the Products Safety Committee. That recommendation was one of a number that were accepted by the Minister of the day. The Minister did not accept all the recommendations of that report.

**The Hon. J. F. RYAN:** Could I ask a final question relating to the regulatory impact statement with regard to the costs of compliance. Your regulatory impact statement talks about the costs of developing and promulgating standards but seems to make no reference to the costs of prosecuting and ensuring compliance and inspection. Has there been any assessment made of those costs by the Department of Fair Trading?

**Mr CATT:** The statement does refer to the costs of monitoring the marketplace and basic compliance procedures. The amount identified is not large; it is around about the thousand dollar mark. But I think that is to be understood on the basis that we are talking about the re-making option -----

**The Hon. J. F. RYAN:** But your cost is, you said, less than a thousand dollars a year, which would be a reasonable cost of carrying out routine monitoring and inspection.

**Mr CATT:** That is right.

**The Hon. J. F. RYAN:** If you were going to launch a prosecution, it would be a hell of a lot more than a thousand dollars.

**Mr CATT:** That is correct.

**The Hon. J. F. RYAN:** Well, should that not be assessed in the regulatory impact statement?

**Mr CATT:** That is definitely a cost that could have been in contemplation and identified. I think it was not given tremendous weight because of the educational programs that have been conducted since the commencement of the regulation in November 1994 and the general adherence of suppliers to it.

**The Hon. J. F. RYAN:** But your survey showed that most suppliers do not adhere to the standard.

**Mr CATT:** I think we are getting confused about what survey we are talking about. Mr Laughton explained that the surveys that had been conducted since the commencement of the regulation in November 1994 have shown substantial compliance with the requirement. A survey that was undertaken as part of the Products Safety Committee inquiry earlier on indicated that there was non-compliance in certain sectors of the market-place, particularly at the lower end of the market.

**The Hon. J. F. RYAN:** Can I suggest to you that it may be that the regulatory impact statement shows enforcement at about a thousand dollars a year because the department does not intend to prosecute anyone, that it has not planned to do that or to enforce the requirement. I mean, that is one possible interpretation of your regulatory impact statement.

**Ms HALL:** I would tend to say that is the conclusion that I draw from it too.

**The Hon. J. F. RYAN:** Is that not a possible conclusion?

**Mr CATT:** It is a matter for the reader to make his own assessment of it.

**The Hon. J. F. RYAN:** Are you prepared to say that that has not been the intention of the Department of Fair Trading?

**Mr CATT:** What I am saying is that ----

**Mr HARRISON:** What you are saying is that you are not going to prosecute anyone if you do not need to do it?

**The Hon. J. F. RYAN:** Are you prepared to prosecute someone if you find there is non-compliance?

**Mr CATT:** That is, as was indicated, dealt with through the prosecution guidelines. It also involves areas of the department that do not come within our direct area of responsibility. But, obviously, there could be the prospect of a prosecution, yes, and it would be initiated in the Local Court. Obviously, there is a cost associated with that, but the department is very skilled in making these prosecutions.

**Mr HARRISON:** It will need to be.

**CHAIRMAN:** I should mention to members that we are running short of time, so that we might have to reduce the extent of questioning.

**Mr CRUICKSHANK:** The Child Accident Prevention Foundation of Australia produced statistics on the nature of injuries, and baby walkers, except in the area of burns, come off better than prams, strollers and highchairs, all of which give more bruising, concussion and fractures than do the baby walkers. Burns are the highest at 17 percent. What percentage of total burns would come from baby walkers? Secondly, if the baby walkers come off best in all those other areas, would you not really be looking at banning prams, strollers and highchairs?

**Mr CATT:** I am not quite sure of the thrust of the question.

**Mr CRUICKSHANK:** Of all burns of children reported to hospitals in New South Wales from this limited survey, how many of those burns are coming from baby walkers?

**Mr CATT:** I do not know the precise statistical detail. Mr Laughton might be able to comment upon that. Certainly, when we did our Products Safety Committee inquiry some years ago we endeavoured to access the available statistics on injuries associated with baby walkers. But I invite the Committee to ask Mr Laughton whether he can assist further on that question.

**CHAIRMAN:** Do you have a comment, Mr Laughton?

**Mr LAUGHTON:** I am sorry, but I cannot answer that question. Perhaps the Health representatives later might be able to address that. It is known that, as a rough guide, of the injuries received in baby walker incidents, about 7 percent are related to scalds. I do not know how that compares with other products.

**The Hon. JANELLE SAFFIN:** I have two questions. One is to do with what power you have to recommend or have products banned. We have looked at the Chief General Counsel's advice on the Trade Practices Act which suggests that at the Commonwealth level, because the product is not inherently defective, and therefore unsafe, it cannot be banned. What is the situation in New South Wales? Is the situation the same?

**Mr CATT:** We take the view that it would differ. There has been mention that we had for some years an unconditional banning order which related to baby

walkers as a generic product. That was an order made under the Consumer Protection Act which was continued under the Fair Trading Act. So, obviously, the Minister who made that order I guess believed that there was sufficient authority under the relevant legislation to introduce a banning order.

**The Hon. JANELLE SAFFIN:** Have you got a written legal opinion about that?

**Mr CATT:** That is going back a long time. What we did when we got access to the Acting Solicitor General's advice was that we sought an opinion from our legal branch of the then Department of Consumer Affairs, and the conclusion of that advice was that there were not any adverse implications for possible action under the Fair Trading Act arising out of the advice of the Acting Solicitor General.

**The Hon. JANELLE SAFFIN:** My next question will be the last, because I am aware of the time. You are an agency and you have the power to police and develop and effect policy. I know government agencies that have that dual, conflicting power usually have an attitude or philosophy that they will pursue one strategy more vigorously than the other. Would it be fair to say that what you pursue is the education, information and advocacy role?

**Mr CATT:** They are key issues for any organisation, particularly at the moment with a new Department of Fair Trading, but certainly Mr Laughton's branch has to combine a whole range of strategies in trying to improve product safety as an outcome for the community. We have indicated that in relation to the making of the mandatory standard in November that his area worked very hard with suppliers who came forward to seek advice on how to comply and so on.

We get approaches from consumers as to the attributes of baby walkers. We have worked very closely with Kidsafe over the years. You will know their attitude to baby walkers. But, generally, we work well with them in, say, the production of their booklet on nursery furniture, which includes reference to baby walkers. We have funded that. So we have used a lot of strategies to advise and warn as well as seek compliance with the laws that were introduced by the government of the day.

**Mr JEFFERIS:** Mr Laughton, I refer to the regulatory impact statement in regard to this preferred option. When you go down the table it completely omits any reference to the costs to the community that will be borne by the continuing accidents that will arise from the adoption of this option. As there has continued to be a group of accidents continuing to occur, that was a significant cost, was it not, for this regulation, knowing that there would be a continuing group of accidents occurring. Why does that not appear as a cost in this preferred option?

**Mr LAUGHTON:** Firstly, I am not a policy officer so I did not write the regulatory impact statement. I had input to it, but I did not prepare it. To answer your question: those sorts of measurements are extremely difficult when you are talking about injury prevention. The objective of the regulation was to reduce considerably the amount of injuries that were being reported to hospitals. I am sorry, but I have lost my train of thought.

**Mr JEFFERIS:** It does seem a major flaw, though, does it not, that this cost to the community of the accidents that are ongoing is not even mentioned in the costing of the proposal that the department adopted?

**Mr LAUGHTON:** As I say, I would imagine that would be extremely difficult, if not impossible, to measure. One of the things that the Products Safety Committee struggled with and could not get a result on was that, being of that age, how many of those children would have received those injuries at any rate, whether it was baby walker related or not. The other thing is, too, that there was an argument that those children get into dangerous environments at an earlier age than they would normally have. So, what I am saying to you is that children pull kettles down onto themselves, and a baby walker may well have done that twelve months earlier.

**Ms HALL:** I find that laughable. I am sorry, but I have never heard such a non-argument in my life. I hate to come in like that, but, I mean, that is not an argument. Surely you must admit that that is not an argument. We are looking at 19,000-odd children who are injured in baby walkers, and children who have head injuries. It is very, very easy to get information on the impact of head injuries and the cost to the community of supporting a person who has serious head injuries and other serious injuries. We have got reports from physiotherapists, occupational therapists and from the Children's Hospital. I am sure if you contact any of those associations they would be able to give you that sort of data. I could point you in that direction.

**Mr LAUGHTON:** We do have that data. But what I am trying to say to you is that ----

**Ms HALL:** No. But I am saying that along with that is the cost factor.

**Mr JEFFERIS:** If I could conclude with this question. The other matter was option three, which includes the ban, but that does not even get assessed in terms of benefits. The benefit there would be the total elimination of accidents. So, when you go to option three in the table, it is not even mentioned as one of the options. The ban is mentioned when generally talking about option three: it just says that there have also been calls to ban the product. Among the other possibilities in option three was the introduction of a design standard. But when you go to the assessment for costs and benefits of option three, the department failed to even look at the question of the costs and benefits of a ban. The American Medical Association and other groups are putting that forward as the preferred case. Is that not another major flaw in this regulatory impact statement?

**Mr CATT:** There are a number of options that could be identified. There is the question of keeping them to a reasonable number. And when the document is read as a whole certainly a number of groups that made submissions had no difficulty in coming to the view that in their view a ban might be a preferred option.

**Mr JEFFERIS:** Would you not expect this regulatory impact statement to look at, say, the consequences of a ban, that it would look at how many people



would lose financially, and that it would look at the benefits to the community? I would have thought it would be so obvious that the absence of it really must cast some doubt on the effectiveness of the regulatory impact statement.

**Mr CATT:** Certainly, that was considered in the earlier Products Safety Committee inquiry which produced a report that was not accessible. I concede that to the people to whom the regulatory impact statement was addressed. I think a factor in the preparation of the document is that it is a document produced by a single State. We really are dealing with a national market-place for this particular product. The utility of a ban by one particular jurisdiction in a national market-place, with the existence of mutual recognition, is very much open to question.

**CHAIRMAN:** We have basically run out of time. But, before we move on, Mr Szann, do you have any comment to make?

**Mr SZANN:** From a standards viewpoint, I cannot see how a standard for baby walkers will eliminate the problems of accidents through navigation. We would imagine there would be substantial benefit in labelling or even preparing an Australian standard for a label to be attached to the product, advising consumers of the potential hazard. That, I believe, is being addressed by the proposed regulation anyway. So the labelling requirement would be substantially beneficial to the community, but a performance specification for the baby walker itself may not change any of the hazards that currently exist.

**CHAIRMAN:** Gentlemen, I thank you for your attendance. You may wish to remain for the general discussion.

(The witnesses stood down)

**CATRINA EDITH LONIE**, Manager, Injury Epidemiology Unit, New South Wales Department of Health, of 13 Hampton Street, Balmain, sworn and examined:

**CHAIRMAN:** Did you receive a summons issued under my hand in accordance with the provisions of the Parliamentary Evidence Act 1901?

**Dr LONIE:** Yes, I did.

**CHAIRMAN:** Doctor, can you start by telling the Committee about your field of expertise.

**Dr LONIE:** I am a registered medical practitioner in New South Wales. I am a fellow of the Australasian Faculty of Public Health Medicine, which means I am a specialist in public health medicine. I worked in injury epidemiology for three years, and I have managed the Injury Epidemiology Unit with the New South Wales Health Department for 18 months.

**CHAIRMAN:** Can you tell the Committee what statistics you have gathered on the reasons for injuries?

**Dr LONIE:** Can I first of all say that the risk of injury from a baby walker is 4.4 times higher than injury from prams and strollers, and 3.8 times higher than injuries from highchairs. That information comes from an article produced by VISS, the Victorian Injury Surveillance System, in September 1993.

**Mr RIXON:** Can you tell the Committee how the 13,900 baby walkers, the 45,400 prams, the 30,400 highchair figures were actually gained? I am wondering how accurate they are.

**Dr LONIE:** That information was collected during the Australian Bureau of Statistics survey which was conducted into the numbers in relation to that nursery equipment and also looking at the amount of time those items of equipment were used.

**Mr RIXON:** How accurate were those statistics and how were they gained?

**Dr LONIE:** As I was saying, it was done through the Australian Bureau of Statistics survey which was done specifically in Victoria to get these figures. Of course, they are estimates, but I would say they are reliable estimates.

**Mr CRUICKSHANK:** I would like to ask about the survey done by the Child Accident Prevention Foundation of Australia. It has come up with figures that show that in only one area was the baby walker worse than everything else, and that is in relation to burns. Are they all that much worse? You are saying they are four times worse. How do you arrive at that?

**Dr LONIE:** There are a couple of issues here. The first issue is that you have to consider the amount of time which the baby spends in the different items of equipment. Once you look at exposure, it is very clear that baby walkers still present a much higher risk of injury than the other two forms of nursery equipment.

I have a paper from the National Injury Surveillance Unit which actually looks at that specific question and shows that beyond doubt. The second is that baby walkers have no proven benefit to the child but have very clearly proven injury hazards, whereas these other two pieces of nursery equipment do have a benefit to the child.

**Mr CRUICKSHANK:** That would be a perception that would be hard to eradicate from the minds of mothers, would it not?

**Dr LONIE:** A perception of benefit?

**Mr CRUICKSHANK:** Yes.

**Mr RIXON:** When you talk about "benefit", would you define what you mean by benefit.

**Dr LONIE:** I am talking about something which has a positive outcome for the child.

**Mr RIXON:** You are saying there it is no positive aspect to a child being in a baby walker other than it is an alternative to the child being shoved in the corner of the far room, where Mum can't see what is going on, in a cot or playpen?

**Dr LONIE:** I think you are twisting what I am saying.

**Mr RIXON:** I am not twisting or attempting to twist what you are saying. What I am saying is that I do not think the definition of "benefit" goes far enough. Some people are saying there is no benefit because the baby walker does not help the body to develop or any such thing. What I am looking at is that for many families, or at least for some families, the alternative to having the child in the baby walker can be having the child fixed in a position in some corner of a room.

**Dr LONIE:** I said a clearly proven benefit. I am talking about a scientific basis. It may be that you can consider those sorts of benefits as well, but there have been no studies that I know of which have looked at those benefits. Can I also say that baby walkers are used by 19 percent of parents to teach the baby to walk earlier. Baby walkers do not do that.

**Mr RIXON:** Rubbish!

**Dr LONIE:** These are figures that I have.

**Mr RIXON:** I have six kids, and that's rubbish!

**Dr LONIE:** I am talking about a population, and 20 percent of the population use them to teach their babies to walk earlier. They do not do that. If anything, they delay walking. Another 29 percent use them to act as a baby sitter, and 36 percent use them to keep the child happy by giving it more mobility. I would argue that these last two reasons are in fact the reasons for the danger of the baby walker. A contented but highly mobile child, and a parent preoccupied elsewhere, is a setting in which the potential risk of injury is high.

I want to go on and talk about where injuries happen and why they happen. Sixty-five percent of cases where children present to hospitals involve injuries that occurred because the baby walker and the baby went down the stairs. Twenty-three percent of injuries occurred because the baby walker fell over on one level, and 11 percent of injuries occurred because the child moved into an area which was hazardous because it could cause things like burns.

What I want to say is that standards that you were talking about before which look at the stability of the baby walker will only affect 23 percent of the injuries, if that. The injuries which occur from baby walkers due to children falling down stairs are more severe than injuries of children falling down stairs. There are several reasons for that. One is that the child is moving at a faster rate. Two, there is a heavier mass which, to anyone who did physics at school, will mean that the child will hit the ground much faster and harder. The second thing is that the head is the most unprotected thing, and that is what hits the ground first. So, injuries which occur from baby walkers are much more severe than injuries which would occur outside the baby walker.

**Mr CRUICKSHANK:** But that is the falling down the stairs statistic.

**Dr LONIE:** Yes. Let me say that from 85 to 97 percent of injuries of babies falling down stairs are from baby walkers.

**Mr CRUICKSHANK:** From my point of view, anyone who lets their children fall down stairs is a non-performing mum or dad.

**Ms HALL:** That is very judgmental, and you cannot make that assumption.

**Mr CRUICKSHANK:** I certainly can.

**Ms HALL:** You do not know why things like that can happen.

**CHAIRMAN:** I will have some order, please. Jill Hall will ask a question.

**Ms HALL:** My question relates to details that I have here from the federal sphere. It talks about the physiotherapy department of the Children's Hospital at Camperdown looking at the benefits of baby walkers, and relates to the occupational therapy department and the neurology department at the same hospital. Those departments cannot put any value on the fact that baby walkers do anything for the children. The question that I have got is: Do you think that they can actually do some physical damage to children by placing them in walkers at an early age? I have read somewhere where that can have some negative impact on the child's skeletal development.

**Dr LONIE:** There is conflicting evidence on that. I am not an expert in child development, so I cannot comment on that. But Chris Gowdie, who will be here later to speak to you, is prepared to speak on that issue. There is some evidence that it does cause delay, but it is not conclusive.

**Ms HALL:** Thank you.

**CHAIRMAN:** Do accidents from the use of baby walkers in New South Wales occur more in families of non-English speaking backgrounds?

**Dr LONIE:** We do not have information on that particular issue. We do know that baby walker use is more frequent in families of non-English speaking backgrounds. That would probably equate to injuries, assuming that all other factors are the same.

**Mr CRUICKSHANK:** Why would families from non-English speaking backgrounds use baby walkers more?

**Dr LONIE:** I think it is a cultural thing. One paper that I read had an anecdote that an Italian family was reported to have said, "Oh, yes, but all Italians use them." I think it is a cultural issue.

**Ms BEAMER:** Could it also be that any warning material about baby walkers is not accessible to people from non-English speaking backgrounds? Though I am sitting here reading all this literature, it might not be available to parents who do not have that information in their own language. The more informed you are about these kinds of things, the more likely you are to avoid them. So, if we put a label on it that says that the item must be used under strict supervision, and that it can cause a number of risks, that might put people off buying the item. But it will not dissuade anyone who cannot read that warning.

**Dr LONIE:** That was a study in Victoria. I do not know what warnings they have in Victoria, but it could well be another factor.

**Mr HARRISON:** I do not think Victoria has any warnings. From what we have been told, Victoria does not have any regulations.

**Mr JEFFERIS:** Mr Chairman, if I may ask a question of Dr Lonie. The Committee was advised by the Minister on 3 October 1995 that the effectiveness of the safety standard that is in the present regulation is intended to be reviewed by the end of 1995 as part of the action plan of the New South Wales Injury Expert Panel set up by the New South Wales Health Department. Is that expert panel still operational or is it defunct?

**Dr LONIE:** I think what was said is incorrect. I am sorry, who was that reported to?

**Mr JEFFERIS:** It was an advice to the Committee by the Minister for Consumer Affairs, Mrs Faye Lo Po'.

**Dr LONIE:** I would like to give you some of the history to it because that might help you to understand what we have done. There are four national priorities for improving health in Australia. Injury is one of those four priorities. There have been goals and targets set at a national level to achieve injury prevention and better treatment. The former Government agreed to set similar goals and targets for New South Wales and develop strategies to achieve them. The former Minister for Health, Minister Phillips, agreed to co-ordinate that action for all of New South Wales.

My area was responsible for setting up the Injury Expert Panel, which had representatives from the then Department of Consumer Affairs, and goals and targets were set for reducing injuries in a wide range of cause areas, and injuries from product related injuries and injuries from falls of children were two of the cause areas out of sixteen. They are the two that relate to baby walkers.

In order to make sure that there is a co-ordinated structure in New South Wales to address all the injuries, we set up a lead agency structure, which meant that we got the agreement of different organisations to develop co-ordinated strategic inter-sectional strategies to address injury prevention in their areas. So, for example, with transport related injuries, the Roads and Traffic Authority is the lead agency.

So, for consumer related products, the Department of Fair Trading is the lead agency. It is their responsibility to develop this co-ordinated strategy to achieve the goals and targets which were set in a collaborative way. One of the ways that they are looking at doing that is to pull together what people in New South Wales are doing in relation to preventing consumer related product injury. It is their responsibility to review their regulation; it is not the responsibility of the Department of Health.

**Mr JEFFERIS:** So this expert panel is not going to look at the safety factor?

**Dr LONIE:** The panel no longer exists. It met on three occasions to establish the goals and targets. It was then decided that we would take this lead agency approach, that that was the best way to co-ordinate injury prevention efforts in New South Wales. We agreed that, instead of the Injury Expert Panel, which was a very big group of unrelated people, we would have a lead agency forum which would have a representative from each forum to report back and try to co-ordinate injury prevention efforts across the range of injuries. Does that make it clear?

**CHAIRMAN:** Are there any further questions to Dr Lonie?

**Mr CRUICKSHANK:** Has the department ever approached you for assessments on the matter of drawing up and reviewing this regulation for the regulatory impact statement? Were you ever approached to give an opinion or data or make comment?

**Dr LONIE:** My unit was not approached. Within the New South Wales Health Department there is also a health promotion unit, which deals with prevention of injury as well. Jane Elkington, who is the injury prevention co-ordinator for the State, is currently on maternity leave, but she may have been approached. I am not aware of whether she specifically has.

**Mr CRUICKSHANK:** You would be more authoritative, and would you not therefore be approached?

**Dr LONIE:** It would go to either one of us, depending on what aspect was being pursued. If it was statistics, they would come to me. If it was more strategic development, they would go to Jane.

**Mr CRUICKSHANK:** If it was statistics, they would want to know whether the product should be banned or modified. These items are not made in Australia. I do not think any of them are made in Australia. Am I right in that? No, I am being told they are all imported. So it would be a fairly significant project.

**Dr LONIE:** The other side of it is that there was an organisation called Childsafe, and I believe you have some of its data. That was an organisation which was established to try to get some emergency department information. It actually worked for health promotion. It was due to the development of injury statistics in this Stage.

**Mr CRUICKSHANK:** How long has Jane Elkington been on maternity leave?

**Dr LONIE:** A month. If that organisation wanted emergency department data, it would have approached Childsafe directly.

**Mr CRUICKSHANK:** The New South Wales Department of Health was consulted.

**Dr LONIE:** They probably consulted the Director of Childsafe, which was Dr Carey at the time.

**Mr JEFFERIS:** Are you able to advise the Committee on what you believe should be the best regulatory approach to be taken in regard to the control of the use of baby walkers?

**Dr LONIE:** Based on the evidence that there is no proven benefit to children and that they pose a significant risk to children, they should be banned. The other suggestions, such as the British standard, would only address the stability of the baby walker, and that would at the most affect the 23 percent of injuries which occur from the baby walker falling over, and would also address the less severe injuries rather than the more severe head injuries from falls down stairs.

As to the other options, such as warning labels, as you may be aware, warning labels have been in place for nearly 20 years, and there is still an unacceptably high incidence of injuries occurring from baby walkers. Experts in this area would say that information alone, such as warning labels, is insufficient to change behaviour, irrespective of the content area, except where there is widespread understanding of or support for the changes, and in this case there is not that sort of widespread support.

The other aspect of warning labels is that parents are still not able to intervene at the speed that babies can travel in these devices. They can travel at an estimated one metre per second, and any parent, even if the parent is watching very closely, cannot act quickly enough to intervene in a situation where the child is rapidly moving to danger. So those are the reasons why warning labels will not work.

I have talked about why improvement of design will not work. The other thing you might consider - such as having gates in houses with stairs where baby

walkers are in use - is ineffective. We know that accidents occur where babies go down stairs in houses which have gates but where the gate had been opened by the baby or had been left open by a parent or a sibling. Even in houses where a fall has occurred, it was found that only 42 percent of houses had acquired a gate after the fall. So those other mechanisms of reducing injuries to babies in baby walkers are not going to be effective, and a lot of time and money will be wasted, as you have already pointed out, in regulating warning labels, in prosecuting retailers or manufacturers, when that money and time could be more usefully spent in other ways.

**Mr HARRISON:** Are there any baby walkers on the market that have the ability to lock up the wheels, as there are on strollers, such as a brake on each wheel, so that in circumstances where the parent wants to walk away the baby could not move the device for a period of time? The child may be able to bounce up and down in it but not move about in it.

**CHAIRMAN:** That may be a good question to put to the next group that we will take evidence from, the retailer and importer.

**Dr LONIE:** That sort of intervention still relies on the parent understanding or being aware that there is an injury risk involved in using the article, and that seems to be the major concern. For example, parents know that having a gate closed will actually reduce the injury risk, and yet even when accidents have happened those gates have not been closed. So those sorts of additional safety mechanisms on such nursery equipment will not necessarily be effective.

**Mr HARRISON:** The real problem is that babies and toddlers look for ways to hurt themselves. You have got to watch them all the time.

**Dr LONIE:** Yes, but we do not want to assist them in that by putting them into an item of nursery equipment which will put them in more danger than they would be, by giving them greater mobility and more height to get to places where they will cause themselves injuries.

**Mr HARRISON:** I take on board your point that there is not really much purpose in regulating them: you either ban them or you do not. Your point is that they should be banned. But that might be discriminating against people who are willing to watch their children and who do take precautions and have gates at the head of a set of stairs and all those sorts of things.

**Dr LONIE:** I agree with that. In any public health measure that we adopt there is going to be a small down side. Take for instance seat belts. We all wear seat belts every day, and we all pay a small price for that, all for the greater good. The issue we have to look at is the greatest good for the greatest number. What we have is an unacceptably high injury rate from baby walkers, when those injuries could easily have been prevented if baby walkers were not in use.

**Ms HALL:** It has been put to the Committee that the problem is not with the piece of equipment but with the fact that parents do not properly supervise their children. It has been said that if we ban baby walkers we should ban cars because



people drive their cars and have accidents in their cars. How old can the child be who is using a baby walker?

**Dr LONIE:** They are usually from five months, and one device can be used for up to a couple of years.

**Ms HALL:** Is a child of that age in a position to make decisions in the same way that a driver of a car is able to make a decision? Have they got the cognitive development to make decisions based on whether or not to move in a certain direction is safe or not?

**Dr LONIE:** No. Children of that age do not have those sorts of faculties. The other thing that we have to think about is that the car has benefits. A baby walker has no proven benefit to the child.

**Ms HALL:** So it is not a fair comparison to compare a child in a baby walker making a decision to an adult driving a car?

**Dr LONIE:** Definitely not.

**Mr RIXON:** There are two other items that parents commonly use. There are two different sorts of baby bouncers. One is the sort that sits on the floor and has a D-shaped spring, and the other sort is the type that you hang in a doorway. Have there been any statistics with those devices at all? Are there any statistics on accidents involving those pieces of nursery equipment?

**Dr LONIE:** This study looked at the bouncing device, which I think is called a baby exerciser.

**Mr CRUICKSHANK:** Bouncinette.

**Dr LONIE:** They do not use those any more. You get rockers. It is a kind of rocker that you strap the baby in.

**Ms HALL:** Baby bouncers and Jolly Jumpers.

**CHAIRMAN:** Order!

**Dr LONIE:** I will call them baby exercisers. I think they are the ones in which the baby jumps up and down. The ones that they just sit in are unlikely to cause injury because the baby is not going anywhere. The relative frequency index - which is from the National Injury Surveillance Unit, which looked at the frequency of use and the injuries occurring from the item of equipment - the relative frequency of injuries for baby walkers was 100, which is like the standard. Baby exercisers were 4.8. The highchair was 45.2 and playpens were 1.9.

**Mr RIXON:** Could we have some of the other statistics?

**Dr LONIE:** Yes. Highchair was 45.2, strollers 34.5, changing tables 30.9, prams 29.3, cots 20.1, baby exercisers 4.8, playpens 1.9.

**Ms BEAMER:** What were walkers?

**Dr LONIE:** 100. They were the highest.

**CHAIRMAN:** Doctor, do you have any figures for a particular period on the number of injuries involving baby walkers relative to the number of baby walkers in use during that period?

**Dr LONIE:** Once again the study done in Victoria did some calculations that the estimated risk is that 1 in 192 baby walkers cause significant injury each year to children aged less than one. They relate to hospital presentations. Those are conservative figures. If we consider presentations to general practice, which we know is about the same proportion as presentations to hospitals, the risk is twice that, at 1 in 96. So 1 in 96 baby walkers cause injury.

**Ms BEAMER:** That means that proportion seek medical attention?

**Dr LONIE:** Yes, from a general practitioner or at a hospital.

**Ms BEAMER:** There are some injuries you can cope with yourself.

**Dr LONIE:** That is right, the small graze or something like that.

**Mr RIXON:** I have a question on these statistics that you are referring to. The actual hospital admissions in Queensland are so much higher than the percentage in Victoria. Is there any suggestion as to why these figures do vary fairly markedly from State to State? You have Queensland at 6.8 percent and Victoria at 1.7 percent, and New South Wales is somewhere in between. Is it just one of those things with statistics, or can you suggest some reason for it?

**Dr LONIE:** There might be more stairs in Queensland. I don't know. I do not know a lot about the QISPP system - QISSP being the Queensland injury prevention and surveillance body. It could be that they have different admission policies and therefore more children get admitted. They may have more severe injuries due to house construction peculiarities. I cannot say.

**Mr HARRISON:** A lot of houses in Queensland are built on stilts to improve air circulation.

**Mr JEFFERIS:** If the New South Wales warning label is working, you would expect those statistics to be less for New South Wales, would you not, in terms of the proportion of accidents?

**Dr LONIE:** I am sorry?

**Mr JEFFERIS:** Would you not expect New South Wales to be at the bottom of the accident statistics as it is the only State with warning notices? If the warning notices are operating, you would expect the number of injury cases to be less, would you not?

**Dr LONIE:** Yes, if the system were being implemented.

**Mr JEFFERIS:** The statistics do not show that, though, do they?

**Dr LONIE:** No.

**Mr RIXON:** What I am getting at is that there is no difference between the appliances used in Queensland, New South Wales and Victoria. They are all of a similar type, are they not?

**Dr LONIE:** I cannot answer that question.

**CHAIRMAN:** Doctor, thank you very much for your attendance.

(The witness withdrew)

**SUSAN ANN LIERSCH**, The Baby Ark, Waverley, Baby Walker Retailer, of 46 Wiley Street, Waverley, and

**TERRY ELCHEIKH**, E.I.C. Pty Limited, Baby Walker Importer, of 98 Victoria Street, Revesby, sworn and examined:

**CHAIRMAN:** Did you each receive a summons issued under my hand in accordance with the provisions of the Parliamentary Evidence Act 1901?

**Mrs LIERSCH:** I did.

**Mr ELCHEIKH:** I did.

**CHAIRMAN:** Have you a written statement that you wish to be included as part of your sworn evidence?

**Mrs LIERSCH:** No.

**Mr ELCHEIKH:** No.

**Mr RIXON:** Do the types of baby walkers that you sell or import vary greatly in style, or are they fairly similar?

**Mrs LIERSCH:** I retail both new and second-hand units, so I would have a range that represent probably five to seven years of production. I would say that the second-hand units never have their warning notices on them any more; they have always been washed off and are never present after the first use.

**Mr RIXON:** Did you see any great difference in the stability of them as such?

**Mrs LIERSCH:** Yes, I did. I do not sell anything that I would say would have been manufactured more than six years ago because of the way they were manufactured. The wheels are smaller, and the frames are smaller and do not spread out as far around the baby, and therefore there is not such a large area covered by them. I thought they were inherently less stable than the newer models. They were more likely to cause injury, even on flat surfaces, or just getting over a rug, than the types that are on the market now.

**CHAIRMAN:** Mr Elcheikh, how long have you been an importer?

**Mr ELCHEIKH:** About ten years.

**CHAIRMAN:** Is the demand for baby walkers still high?

**Mr ELCHEIKH:** We developed a baby walker about two and a half years ago which I have got here and I will show you in a minute. About two or three years ago a law was set to say that the baby walkers are not good and so on, so many importers have lowered their importation. It has been probably better for us when the law comes in and said not many baby walkers can be on the market. This

baby walker that I will show you has been selling in Australia probably better than any other. We import about 500 items, and it is the best seller for us in Australia at the moment.

**Mr CRUICKSHANK:** It is the best of all the items that you import?

**Mr ELCHEIKH:** Our sales would be about 40 percent of the total items we have got.

**Mr CRUICKSHANK:** Is it going up or going down?

**Mr ELCHEIKH:** It is going up. Actually, it is increasing more and more, because we are selling in more States and so on. Before, we were selling mainly in New South Wales and Brisbane. At the moment we are supplying Victoria, Adelaide, Sydney and nearly all Australia.

**Mrs LIERSCH:** From a retailer's point of view, there are only three importers now selling them, whereas everybody use to have one. So that could account for it.

**Mr HARRISON:** Is there in production a baby walker on which the wheels can be locked up, in the same way that the wheels of a pram or stroller can be locked?

**Mr ELCHEIKH:** We have developed one recently. It has been on the market for two or three months now. The demand for it is not greater than the other one at all.

**Mr CRUICKSHANK:** Does that have a locking device?

**Mr ELCHEIKH:** It does not lock wheels. Would you like me to show you now?

**Mr HARRISON:** It has wheels that can be locked up?

**Mr ELCHEIKH:** It is more than the wheels.

**Mrs LIERSCH:** It spins in circles, rather than going anywhere.

**CHAIRMAN:** Before you start to demonstrate it for the Committee, for the record I should record that you are going to give a demonstration and that you are not producing this baby walker as an exhibit.

**Mr ELCHEIKH:** No. This is the baby walker that was developed two or three years ago, and it does not have the stopper. The baby walker with the stopper has been developed about two or three months ago. This baby walker has been manufactured out of strong material, and you can throw it and it will not break.

**Mr HARRISON:** Are those stopper pads adjustable?

**Mr ELCHEIKH:** Some time ago the baby walker used to break. If the whole baby walker breaks, it will cause more injury. So this strong construction is preventing some of the problems.

**Mr HARRISON:** You are still moving that around while the pad is down.

**Mr ELCHEIKH:** If you want to put both of the pads down, it is now a rocker. It will not fall over. But once you have those pads down, it is not a walker any more. At the same time, when you want to have your child learn more quickly how to walk, you can put it in the walker and supervise it. Any child, without supervision, will hurt itself. If you have the pads down, nothing will happen to it in the baby walker.

**CHAIRMAN:** You are basically displaying that the baby walker has retractable supports that keep it stable so that the baby cannot move it around?

**Mr ELCHEIKH:** Exactly. When those pads are down, the unit will not move at all. You cannot move it yourself because it has a rubber on the foot of the pad.

**Mr HARRISON:** If the child threw itself about in the baby walker, could it tip the baby walker over backwards? Those stoppers are on either side. Would not the unit be much safer if the pads were on each corner?

**Mr ELCHEIKH:** If you put a child in this unit - and we have tried it - it does not matter what you will do to it, it will never fall over.

**Mr RIXON:** But children tend to throw themselves backwards.

**Mr ELCHEIKH:** It goes forward a bit, so no matter what the child will do it will never fall back. If you set it up like this, with only one pad down, it will go around in circles.

**Ms HALL:** Is the child strapped in in any way?

**Mr ELCHEIKH:** No, it is not strapped in, but a child of 5 to 12 months can never get out of this walker.

**Ms BEAMER:** Oh, they can!

**Mr ELCHEIKH:** The next shipment has straps around it, which will be coming in about two or three weeks. So we are taking all precautions and safety measures possible to keep the walker. Every shop and mother I have spoken to has said that every one of us has grown up in a walker, and it has a great benefit. Everyone likes the walker. They said the regulation is very discriminating against them if you ban the baby walker. That is why we are trying everything possible with safety measures, to keep the baby walker from being banned.

I will get the other one now. This one has no wheels or nothing at all; it is just to keep the child standing up and play in, whatever. The sales of this one

compared to the other one is probably 1 percent. We have got both. This one can rock, but it can never move, so people do not want it.

**Ms BEAMER:** It is not a walker.

**Mr ELCHEIKH:** It is not a walker, but it designed as an alternative for a walker.

**Ms BEAMER:** It says on it that it is a Baby Boat.

**Mr ELCHEIKH:** It is not a real boat; you cannot put it in the water.

**CHAIRMAN:** Thank you for the demonstration.

**Mr JEFFERIS:** Do you have the leaflet that you sell with those baby walkers?

**Mr ELCHEIKH:** I have not got it with me here. We have leaflets.

**Mr JEFFERIS:** What do you put with it when you sell one of those? Can you read out the warning notice that is on that.

**Mr ELCHEIKH:** It has: "Avoid injuries. Baby can move fast in this walker. Never leave baby unattended. Do not allow near steps, stairs, heater, electrical cords or hot objects." It has symbols to tell you not to collapse it when the child is in it, not to let it near stairs, and so on. For people of non-English speaking backgrounds, they have all the pictures here so that anyone can recognise them.

**CHAIRMAN:** What you are saying is that it has a warning label on it as well as indicators to show what not to do with the baby walker while the baby is in the walker?

**Mr ELCHEIKH:** That is right. Do not put near fire, near stairs, not to collapse it when the child is in it, and so on.

**Ms HALL:** Could we all view that so that we have a good idea what the signs are and how visible they are and the impact of them? Is that placed on there by the importer?

**Mr ELCHEIKH:** By the importers, yes.

**Ms HALL:** Is there any position where it should be attached? Are you given guidelines as to where it should be placed?

**Mr ELCHEIKH:** We have placed it here because it comes in the box upside down, so that when you open the box you have to see it.

**CHAIRMAN:** We will return to questions now. While we are preparing for the other witnesses, members may have a look at the indications on it.

**Mr CRUICKSHANK:** Mrs Liersch, do you sell that baby walker?

**Mrs LIERSCH:** I do, and I sell the boat one as well.

**Mr CRUICKSHANK:** Is that a reasonable design, do you think?

**Mrs LIERSCH:** Yes, it is a good design. Basically, any new mother who is purchasing for her child will buy three or four different activity things - a Jolly Jumbuck, a bouncer or a rocker, a walker and maybe some other thing, so that she will have a range of activities for the child while she puts the child in the piece of equipment so that she can get something done. So you spend the day rotating the child from one to another.

They are basically very much open to parental responsibility, as are car seats, etc. I would like to see the tags that are on them put on them in a way in which they will attract a bit more attention: rather than put them on the rear, to put them on the front or probably even on the tray, and to be put on in a way that they cannot be removed. If you are getting it out of the box, you only see it once, and that is when you are getting it out of the box. That is it, you never look at it again. But, if it is on the tray, where the mother can see it every time she approaches or feeds the child or whatever, I think it would be of great benefit.

There is another product on the market which I have been having a laugh about this week. It is a portable cot. All of these portable cots have a clearly written sign inside that says "Do not leave baby unattended". I mean, what are you supposed to do - sit there with a flashlight in a chair all night, staring at the baby? No-one reads it. Nobody would buy it if they read it. I have only ever had one inquiry in five years as to why that is actually there. So only one customer of the many customers I have had in five years has actually read it.

So, if you are going to continue to use them, you have to plaster them with something that is not going to come off. I have not seen over the years a warning sticker on anything I have purchased second-hand; they are just not there any more. If they were going to be continued, they should be continued in a format that gives a parent an option of stopping it or that makes the warning a lot more visible.

**Ms BEAMER:** We have heard that the people who buy them see them as beneficial to their children.

**Mrs LIERSCH:** To the mother.

**Ms BEAMER:** Not to the children?

**Mrs LIERSCH:** No, to the mother.

**Ms BEAMER:** What you are saying is that this is a product that gives mothers time to make bottles, go into the kitchen, go to the toilet, and do the things that have to be done?

**Mrs LIERSCH:** Basically, yes.



**Ms BEAMER:** Even if you are the most supervising parent around. The thing about this is that we have had experts say to us that even where there are gates at the top of the stairs the child still falls down the stairs in these baby walkers because the stair gate has been left open or has been opened. Putting this stopper on is another thing you can do, because it immobilises the baby walker. But it is up to someone to operate the stopper. It does not make them any more beneficial to the child. There is no intrinsic benefit to the child in being in this baby walker. If children are falling down stairs even where there are gates, you have to put this stopper on. I would suggest it is probably more of a gimmick.

**Mrs LIERSCH:** I have two of my own children and I have used baby walkers for both. I supervise them in the baby walker, and I am careful. But not everybody is. It is leaving open an opportunity to people who are not. Whilst I make sure that mine never have any injury, I would have to seriously question a few of the people who come in to buy them as to what is going to happen with that walker once it leaves the shop. As long as they are not banned, they will be sold. I will continue to sell them. So, if you do not want them sold, you have to ban them. It is that simple.

**Mr HARRISON:** Could I make an observation. Reference has been made to the selling of second-hand baby walkers. Have you got an idea how many of these baby walkers there would be in this State? I think it would run to maybe tens or hundreds of thousands.

**Mrs LIERSCH:** I would sell 10 second-hand walkers for every new one that I sell, which means that there are a lot more out there in circulation.

**Mr HARRISON:** People give them to their friends, or sell them by advertising them in the paper, or whatever.

**Mrs LIERSCH:** Yes. It will take probably five or six years for the older one to filter out of the market, because then they will just break, get old or wear out, and they will no longer be useable. So banning them will slowly decrease the incident rate over a period. They will still continue to be sold in the Trading Post by people who will not take responsibility for the fact that they are banned. They will still move around. The seats crack up in 18 months. So you cannot use it if it has not got a seat in it, and if you cannot buy a replacement seat the unit is no longer useable. It is like leaded petrol; its use will eventually die out.

If you ban the baby walker, somebody will invent something else to take 20 minutes of the mother's time in some other way that is maybe not so dangerous. It will just create a void which will be filled by something else. I would not suffer any considerable financial loss by losing the market. Like I said, if you want me to stop selling them, then ban them. I do not care if you do ban them, because something else will come along and the space will be filled with something else. I am a bit more responsibility minded than to deliberately try to make money out of children's injuries. Who are we trying to protect? It is the child, not the mother.

**Mr JEFFERIS:** You have just expressed your concern about children's injuries. Why, when the Federal Minister wrote to retailers asking them in the

interests of reducing injuries to children to voluntarily withdraw baby walkers from sale, why did you not do so?

**Mrs LIERSCH:** Because I have used them, and I believe them to be safe with proper parental supervision. I do have a conscience and I do operate in my shop with a conscience. There have been occasions where I have refused to sell them. But I am operating within the laws as they are. I would not let one go out of the store without all the normal warnings that go with it, such as "Do you have gates? Are you aware that you can't let the child in the kitchen?" And I always ask, "Do you have stairs?" We go through this process every time we sell one, because that is the way that we are.

I guess I believe in parental responsibility. I fit car seats, and if you could see 50 percent of the car seats that I see and the way they are fitted, and the way that the children are in them you would be amazed. Kids get wheeled into the shop with no harness in their prams. And the number of prams I have chased down hill because mothers have left them with the brakes off! It is just another area in a whole area that is completely open to parental responsibility. I believe very strongly in parent education.

**Mr JEFFERIS:** Mr Chairman, could Mr Elcheikh give his views on why he has not complied with the request of the Federal Minister.

**CHAIRMAN:** Mr Elcheikh?

**Mr ELCHEIKH:** I think it was not a real ban on them. They said, "If you could assist or try to assist in stopping the walkers." We were going to. At one stage we stopped them for probably up to six months, when we did not have any walkers. But you would not believe the requests from people who wanted walkers. They said that the law every now and then can be funny law. Anything they see which is popular or useful, they just want it. Probably that is one of the reasons.

I am a sales manager at the same time, and I have visited so many stores, and everyone thinks it is unfair to ban an item which has been on the market for probably 50 years or more than that. Every one of us has been growing up in a walker, and everyone has been using the walker for their children. They think it is an item which helps the mother a lot in looking after their children at home and doing their work at the same time as the child is in the walker.

My personal suggestion, as I have mentioned before, is if the baby is left alone, it does matter if it is in a walker or anything, probably if it is not in the walker the child could hurt itself more; it could go anywhere. Say, if it is on the stairs, it could go through the bars and it might fall down and kill itself. If the walker is a bit big, it is not easy to go into a very narrow space. So that is how we supported the case, not because of the profit. We would never like to make a profit and hurt children or cause injuries to children.

**Ms BEAMER:** That is not how the evidence presents. You say this causes less injury because it is bigger and so on, but that is not the evidence that has been presented.

**Mr ELCHEIKH:** That is my personal opinion. I did not say it is the evidence.

**Ms BEAMER:** In fact, the opposite is true.

**Mr ELCHEIKH:** I do not think the opposite is true. Like, ban walkers if you want and see if the children will not hurt themselves.

**Ms BEAMER:** I agree that there are other things that have to be taken into account as well.

**Mr ELCHEIKH:** Yes, there are so many other things.

**Ms BEAMER:** Highchairs and other items cause problems.

**Mr ELCHEIKH:** Yes. As you mentioned, if the car seat in a car is not properly installed, it can kill the child. I think most people put it on just because of the law; they do not want to get a fine or whatever. I cannot see why the walker is causing more problems and more injuries, because, as you just mentioned, if you look after the child in a proper way, the child will never hurt itself.

**Ms HALL:** But the figures are there. You cannot argue with figures.

**Mr ELCHEIKH:** I think there are more injuries in baby walkers than other items is that everyone uses baby walkers. Do you know what I mean?

**Ms HALL:** Not everyone uses them. I may not have six children, as my colleague does, but I have three children and I did not use baby walkers because I read about them and I did not believe they were a safe bit of equipment.

**Mr ELCHEIKH:** My survey, from going into the shops and talking to mothers, show that 80 or 90 percent of mothers use baby walkers. Probably, if you do not use them, that is up to you.

**Mr CRUICKSHANK:** Mr Elcheikh, is there a cultural or ethnic difference here in the usage of baby walkers, in your opinion, as compared with people of English speaking backgrounds or non-English speaking backgrounds?

**Mr ELCHEIKH:** Not to my knowledge, no.

**Mr CRUICKSHANK:** Whereabouts do you sell, if you do not mind my asking?

**Mr ELCHEIKH:** As I said, we do sell in probably every specialty baby shop and to people who specialise in baby products.

**Mr CRUICKSHANK:** Did we ask you how many of those you sold over a year or month?

**Mr ELCHEIKH:** Last year we sold around 20 containers of baby walkers, and each container contains about 500 pieces, so it would be around 10,000 pieces. And that is with everyone saying it is not good to sell them.

**Mr CRUICKSHANK:** That is throughout Australia?

**Mr ELCHEIKH:** Throughout Australia, yes. I think that was in Adelaide and Melbourne when we were on a very small scale. I am sure this year we can do much better than that.

**Mr CRUICKSHANK:** You said that there were about three main importers, is that right?

**Mr ELCHEIKH:** Actually, there may be more.

**Mrs LIERSCH:** It is about three main importers. One of them is shortly to stop. I think they are running their stocks down. That will leave two only.

**Mr ELCHEIKH:** At the moment there are another three or four people getting the walkers again.

**Mrs LIERSCH:** No. They are getting this model with the stoppers on them. The walkers without any brakes or safety devices are going.

**Mr ELCHEIKH:** Yes, I think they are.

**Mr CRUICKSHANK:** Your point was that this was another alternative for mothers, to break up their day.

**Mrs LIERSCH:** Exactly. This is probably a bit far-fetched, but mothers need breaks during the day, otherwise the risks to the child increases. I am sure that that would happen. You have got to be able to calm the baby, get it to stop whingeing and settle down for a few periods during the day. I mean, all children are different, I know. The majority of second-hand walkers that I sell are sold to mothers who have had a number of children and who have used baby walkers with their previous children as well.

**CHAIRMAN:** Mr Elcheikh and Mrs Liersch, thank you very much for your contributions. We will have a short break to allow members at this point to view the walkers. You may stay until the end of the day's proceedings.

(The witnesses withdrew)

**NOEL LEVIN SVENSSON**, Emeritus Professor, University of New South Wales, Gait Analyst, of 14 Want Street, Mosman, sworn and examined:

**CHRISTINE BOWES GOWDIE**, Kidsafe Organisation, of 25 Leicester Street, Epping, affirmed and examined:

**CHAIRMAN:** Did you each receive a summons issued under my hand in accordance with the provisions of the Parliamentary Evidence Act 1901?

**Ms GOWDIE:** I did.

**Prof. SVENSSON:** Yes.

**CHAIRMAN:** What is your occupation?

**Prof. SVENSSON:** At the moment I am an emeritus professor of the University of New South Wales. Before my formal retirement I was professor of mechanical engineering. My main area of teaching and research was then, and still is, in the area of biomechanics, part of which was gait studies on, in our case, elderly people.

**Ms GOWDIE:** My occupation is Executive Officer, New South Wales Division of Kidsafe, the Child Accident Prevention Foundation.

**CHAIRMAN:** Professor, would you like to make a statement to the Committee, or would you prefer that we asked you questions?

**Prof. SVENSSON:** If I could make a brief statement. As I mentioned before, I have been involved in gait studies, which has been one of my areas of interest and research. I have not been involved in the gait studies of children, but one of my activities of the past led to the establishment of the Rehabilitation Engineering Department at South Sydney Hospital, and via that route I became involved in studies of gait redevelopment of disabled people.

So I have a background in the mechanisms and mechanics of gait development. I was only involved in this from Tuesday, and therefore I have not had an opportunity to follow up with work. One of my colleagues referred me to a text book. He is now in the United States and he has the book with him. It was a book on the development of gait - how gait develops from when children starting walking until they are 21 years of age. When he showed me that I read through it and studied it. But that is my background to this particular issue.

**CHAIRMAN:** Do you see any danger with baby walkers as far as children being able to manoeuvre them or stand in them?

**Prof. SVENSSON:** There are two aspects. One is that I see the problem of dangers, particularly if there is a lack of supervision and of the mobility of these items. I believe that they are probably satisfactory in terms of their stability within themselves. The other issue is that I see no beneficial outcome from these devices in terms of the ability of the child to walk.

**Ms HALL:** Do you see any detrimental effect to gait from attempting to walk at too early an age?

**Prof. SVENSSON:** The reason for the opinion that I just expressed was that there are two issues involved in walking. One is the skeletal and muscular strength, and the other is the neurological processes to phase the relationship between the two movements. That particular aspect is one that we had looked at with regard to spinally-injured people who were partially affected.

To me, if it encourages children to walk earlier than their muscular and skeletal development would normally allow, then there are not, I suspect, severe dangers in terms of the long-term ability but it can cause some deformations, such as bandiness, for example. The other issue is that from the point of view sitting and propelling oneself along, it is not the natural process and therefore is giving some of the wrong signals to the neurological control systems in the body.

**Ms BEAMER:** Is there not another problem with walking in baby walkers that children often walk tippy-toes? I mean, what happens to their feet when they are not flat but the child is tippy-toeing?

**Prof. SVENSSON:** I do not think it would have any long-term effect on the feet as such, but again it is tending to encourage them to walk with their feet plantar flexed more than normal.

**Ms BEAMER:** I have anecdotal evidence of a person whose child needed corrective surgery for the tendons, and they could only walk on their tippy-toes afterwards.

**Prof. SVENSSON:** They will make good ballet dancers. I suspect - and I have no direct evidence of it - that the long-term mal-use of the muscular system would have that effect. So it depends how long they have been doing that.

**Mr CRUICKSHANK:** Is gait exactly the same as walking?

**Prof. SVENSSON:** Yes. I guess it is the technical description of walking.

**Mr CRUICKSHANK:** I had thought gait was something to do with the way you balance from side to side.

**Prof. SVENSSON:** It involves that. Gait covers the whole spectrum of the issue.

**Mr RIXON:** When we are talking about possible ill-effects on frame development and so on, is that related in any way to the length of time that the child may be in a walker? By length of time, I mean hours per day rather than for a period of months over which a baby might be using a baby walker.

**Prof. SVENSSON:** The body always reacts to what it is doing, and the younger the child the more viable the bones; they have not yet ossified. The whole structure is very flexible, and the longer it is held in a particular position or in a particular style of movement, then the more ingrained that becomes in the child. It

can subsequently get out of that gait and correct itself to an extent, but the longer it is subjected to poor posture, the more permanent will be the effects of it.

**CHAIRMAN:** Ms Gowdie, you are from the Kidsafe Organisation. Do you have a written statement to deliver, or would you like to make a written statement prior to committee members asking questions?

**Ms GOWDIE:** I have several documents in front of me which I am happy to table if the Committee would like me to do so, but I would like to speak to them first.

**CHAIRMAN:** Proceed.

**Ms GOWDIE:** Kidsafe, the Child Accident Prevention Foundation, has been concerned about the baby walker issue for a long time, largely because of the incidence of injury caused by the use of baby walkers, which is far higher than and out of proportion to their commonness in the community when compared with other items of nursery furniture, such as changing tables, highchairs, strollers and so on. Because they appear to have no real benefit to the child - and I heard someone say earlier that the benefit is all to the mother - we do not consider that baby walkers make a useful contribution to child development. None of the evidence that we have been able to collect suggests that they do.

On the other hand, baby walkers are associated with a quite disproportionate number of injuries to children, and those injuries tend to be more serious injuries, including head injuries, limb injuries, and children pulling things down on themselves, accessing poisons and hot objects, so that you get nasty cases, like that of a child of a couple of years ago who pulled down a hot iron which landed on the shoulder, leaving horrific burns. That child will be scarred for life. If he had not been in a baby walker he would not have been able to reach the hot iron.

**Mr CRUICKSHANK:** What would you say about the role of baby walkers versus all the other devices and parental care and responsibility?

**Ms GOWDIE:** There are a number of problems specifically with baby walkers. One is that, unlike a pram, which has a definite function - which is to enable a parent or carer to move a baby around and carry other things at the same time much easier than carrying a child in an arm, for instance, and sometimes even safer - the purpose of the baby walker is to entertain a baby. It does not have any use beyond that.

**Mr CRUICKSHANK:** Not that it is good for mothers?

**Ms GOWDIE:** It may be good for mothers if the mothers propose putting the child in the baby walker and then getting on and doing something else. But if she is doing that, she is not supervising the baby. So the whole question of the warning labels is pointless. They say that the child should be supervised at all times, but if the mother is using the baby walker essentially to baby sit, then that supervision goes out the window.

**Mr JEFFERIS:** Through you, Mr Chairman. Professor, would you consider that any laws that allowed the use of baby walkers should have been preceded by an

examination of their effect, if any, on gait and in regard to the extremely young age at which these children are being put into baby walkers? Does it surprise you, for instance, that the regulatory impact statement prepared by the department made no examination of possible adverse effects in that respect?

**Prof. SVENSSON:** I would think that as a matter of principle that should be done before the regulations are introduced. There is, of course, the issue of products becoming invented and available on the market before there is any thought of regulation. You do not regulate to introduce a baby walker, but you may regulate to control after it has been introduced.

**Mr JEFFERIS:** But New South Wales does have a Products Safety Committee, so you would think that might be an apt area.

**Prof. SVENSSON:** That would be an appropriate body to investigate the statistics of accidents. I suspect there would be no statistics available for that body to be able to point out gait deficiencies that arise from the use of the baby walker, and therefore it is not in a position to use that as a basis for regulation or prevention.

**Mr JEFFERIS:** How would you go about obtaining evidence in this area?

**Prof. SVENSSON:** I think you come up against the classical ethical problem: If there is a fair suspicion of something being wrong, do you do nothing about it, and take the group of children who are exposed to that hazard, if it perceived as such, and allow them to remain that way, and then do a gait study? You could not do a gait study on someone below the age of probably 18 months or perhaps older, and it is then perhaps a year after the damage has been done.

So I would tend to be looking at it from a theoretical point of view that the muscular/skeletal system is developing, and it is very fluid. We know that if you immobilise limbs for any length of time, and if you apply forces to bone for some time, that will change the limb. Therefore the implication is that an incorrect posture in a developing skeleton will lead to some damage, which can be rectified. But the balancing of all of that and the doing of that research is not easy. It creates an elemental ethical problem.

**The Hon. JANELLE SAFFIN:** Professor, given what you have just said about the ethical problems and a lack of hard evidence, if you were asked your opinion would you apply the precautionary principle that says that if there is a doubt and possible damage to be caused, then do not use the item?

**Prof. SVENSSON:** My opinion, I guess, would be that if there is a doubt and if there is no strong benefit in having the device - and I think that motor cars were mentioned before, and there are benefits in people having cars - there are benefits, even if misused, in having child restraint systems. But, in my case, I would see the potential for danger. I see no real benefits to the child. It is a play substitute for the benefit of the mother. Therefore I would say they should not be available.

**Ms GOWDIE:** I would like to pick up on that question of evidence on what baby walkers do to children. This is anecdotal, but it comes from a survey of early



childhood nurses which we did informally some time ago - the early childhood being the dreaded clinic sisters, who of course were essentially in their first year. But the feedback that we had was that children who use baby walkers were very much given to toe walking, which I think is what Ms Beamer was talking about. Generally, the problem will correct itself over time, but occasionally there are cases which require therapy to remedy the problem.

**Mr RIXON:** On the second-last paper that Kidsafe submitted you mentioned design change.

**Ms GOWDIE:** Did we send that in? It is some time ago. It is from Hazard, the Victorian injury surveillance journal.

**Mr RIXON:** In that article there is the comment that design change, which made the base bigger than doorways, would prevent many accidents and also made the point that kids would not perhaps be able to reach out so far beyond the baby walker and grab things, preventing two types of accidents. Could you comment on that? One of the benefits suggested is a stress-free or less stressful period for mothers. Would you comment on those two things.

**Ms GOWDIE:** The idea of a very large baby walker that will not go through doors is that it would have the benefit of stopping a child getting out of a room it was in originally and perhaps accessing steps and getting into the laundry, pulling down the iron, and that kind of thing. The reason we doubt that it would catch on is that we think that you would probably need a bionic baby to drive it. If the baby is not bionic, it could become fairly frustrated and wind up crying just as much anyway.

In fact, I have seen children put in baby walkers and not able to drive them properly getting very distressed. Of course, I have no sound evidence for saying that, but it is a commonsense deduction. Most of the design changes that I have seen proposals for mean that you would have a device rather like this one down here, which has the rocker on the bottom, which are not really baby walkers any more.

**Ms HALL:** Could I ask, Ms Gowdie, whether you were asked to comment on the regulatory impact statement?

**Ms GOWDIE:** Yes, I was.

**Ms HALL:** How detailed was your comment?

**Ms GOWDIE:** It was fairly deep. It came to us with a lot of information, as I am sure you are aware, from the Department of Fair Trading, which included injury surveillance data from the national Injury Surveillance Unit and from the Camperdown Children's Hospital. My submission mainly was referring to that data, and additionally to work by Ozan, Smith, Williams et al at the Monash University Accident Research Centre.

**Ms HALL:** Did you get any feedback after you had made that submission?

**Ms GOWDIE:** No. The crux of my submission was that since there seemed to be problems with imposing bans on baby walkers, and there seemed to be an assumption that somehow baby walkers were devices in which the community should have confidence, perhaps we should look at redefining baby walkers as devices that have no purpose beyond entertaining a baby. Most things that entertain a baby are also called toys. Perhaps if we took to looking at a baby walker as a toy we might come to the conclusion that dangerous toys are frequently the subject of bans.

**Ms BEAMER:** The design of the baby walker that is here allows the parent to stop the mobility aspect. I know there are issues about gait and about baby walkers causing a lot of accidents, but most of the accidents relate to their mobility. If there was a walker which just went round in circles and got the mobile removed, would you see that as a design improvement?

**Ms GOWDIE:** From an injury point of view, it probably would be an improvement, as long as the item was not of a kind to tip over if it came across irregularities on the surface of the circle that we are talking about. You also wonder whether it is really a baby walker any more. You might be better off putting the child in an entertaining device which has a lower injury rate than a baby walker, like one of those Jolly Jumper things.

**Ms HALL:** Would a baby walker going in a circle have any adverse effect on the child?

**Ms BEAMER:** It does not get over the gait problem.

**Prof. SVENSSON:** It could aggravate the problem. You are then introducing a twisting action on the legs of the baby.

**Ms BEAMER:** And you would have one leg, the one on the outside, doing more work.

**Prof. SVENSSON:** I have one comment about that design. I think putting that pad down is a useful thing, but I wonder about how easy it is to be done, and therefore whether it will be done very often. It does not look to be an easy pad to activate.

**Ms BEAMER:** I thought it looked fairly easy to operate. One of the problems is that children still go down stairs because gates are left open. If that is a problem, I wonder how many of these will be adjusted anyway, whether it is hard or easy to do it.

**Mr HARRISON:** Mr Chairman, could we have another demonstration of how hard or easy it is to put the pads up and down?

**CHAIRMAN:** I think we will leave that till after.

**Mr RIXON:** While the engineer is present, it would be interesting to hear his comment on that.

(The baby walker was again demonstrated)

**Ms HALL:** What did you find, professor?

**Prof. SVENSSON:** It is not hard to operate. I think it would make the task inconvenient, and therefore it would possibly not be done.

**CHAIRMAN:** One thing that concerns me is whether the device would be workable for the life of the actual baby walker.

**Prof. SVENSSON:** I suspect it would be, as long as it was kept clean. I suspect that is not a problem.

**CHAIRMAN:** Ms Gowdie, you have documents that you wish to submit?

**Ms GOWDIE:** Yes, I have. I would like to make a statement before I do that, Mr Chairman. It addresses the question of baby walkers. Both the Child Accident Prevention Foundation and the College of Paediatrics would argue that baby walkers are associated with far too many injuries; that Australian and international experience clearly shows that warnings to purchasers are ineffective. We have heard evidence here this morning that once a baby walker has been in use for a while the warning label tends to disappear.

As a general principle of injury prevention, we have found - and we are not the only ones - that exhorting people to safe behaviour does not work particularly well, and exhorting parents to safe behaviour with a baby walker, if what they are buying is a baby walker to entertain the baby while mum does something else, is ignoring the crux of that warning label anyway. So we have very little faith in the efficacy of warning labels, and that goes for the College of Paediatrics as well as for Kidsafe.

**Ms BEAMER:** This baby walker has a warning that the device moves quickly. The device that does not move has exactly the same warning on it. What does it mean to the consumer looking at the warning? Surely the consumer would say, "This has got the same warning, but it does not move."

**Mr ELCHEIKH:** It has a warning label.

**Ms BEAMER:** "Avoid injuries. Baby can move fast in this walker". If you have got all these things which are irrelevant to that ----

**Mr ELCHEIKH:** That is assembled here, but ----

**CHAIRMAN:** We are taking evidence, so we cannot have over-talking. Ms Beamer has asked a question of the professor.

**Ms BEAMER:** I was making the comment that you are talking about warning labels. If warning labels have to be accurate, and this warning label says "Avoid injuries. Baby can move fast in this walker", it is farcical to have a stationary object labelled with the same warning. People will think these warnings are just stupid.

**CHAIRMAN:** Are there any comments on that?

**Prof. SVENSSON:** I think warning labels, as I have said several times, are not particularly effective in the long term.

**Mr JEFFERIS:** Ms Gowdie, why do you think it is that, with all this evidence regarding the effects of the use of baby walkers, after 20 years of use there is no place in the world that has banned the use of them?

**Ms GOWDIE:** It is probably for the same reason that they have not been banned in Australia. Perhaps Australia is more inclined to regulate than are other countries; I do not know. What we do know is that the international injury data that we have here indicate that the results we are getting are not in any way freakish and that attempts to address the problem in North America, Canada and the United States have been fairly wide-ranging. They have not proceeded to a ban, but sometimes one wonders why they have not.

**Mr JEFFERIS:** Do you think it is a commercial reason -----

**Ms GOWDIE:** Very likely.

**Mr JEFFERIS:** ----- over-riding a safety-related consideration?

**Ms GOWDIE:** I do not think I am expert to give that evidence, but a personal view would be that the commercial interest would be part of it.

**Mr CRUICKSHANK:** Influencing the political system?

**Ms GOWDIE:** I would rather not comment on that.

**Mr HARRISON:** I do not think the manufacturers of baby walkers have too much influence over this Committee.

**Mr CRUICKSHANK:** But there are two importers in Australia and they are selling 10,000 units of this item per year. Most politicians could add their numbers on that fairly well, I would think.

**CHAIRMAN:** Thank you, Ms Gowdie and Professor Svensson, for your evidence.

(The witnesses withdrew)

**JACQUELINE TITHERINGTON**, Supervisor, Babyco, of 16 Du-Maurier Place, Wetherall Park, sworn and examined:

**CHAIRMAN:** Ms Titherington is a supervisor at Babyco, a chain store for baby needs and an outlet for baby walkers. Ms Titherington was not present at the actual time she was scheduled to give evidence, but we will take her evidence now. Ms Titherington, did you receive a summons issued under my hand under the provisions of the Parliamentary Evidence Act 1901?

**Ms TITHERINGTON:** I did.

**CHAIRMAN:** Do you have a written submission?

**Ms TITHERINGTON:** No, not at all. We have some points to answer and cover. First of all, could I apologise. The General Manager cannot be here because he is overseas at the moment on a buying trip, so I have been asked to come along to represent the company.

**CHAIRMAN:** Would you just like to answer questions?

**Ms TITHERINGTON:** Yes.

**Ms BEAMER:** You are one of the biggest baby retailer outlets?

**Ms TITHERINGTON:** Yes.

**Ms BEAMER:** Do you think that the product we are talking about has a real place among the other things that you sell in your stores?

**Ms TITHERINGTON:** I am a mother with two children, and I have worked at Babyco for 13 years. As a store manager and as a supervisor, we have never come across a problem with one of our walkers.

**Ms BEAMER:** Not in terms of its design and the unit collapsing and that sort of thing?

**Ms TITHERINGTON:** No safety aspect. The only time the customers bring them back to us is when there is a cosmetic reason involved. That is usually when they have had a second or third child and they want the unit to look really pretty for the next child. But, as far as safety, not at all.

**Ms BEAMER:** When we talk about safety it is where the baby gets in the baby walker and ends up in hospital. You would say it is not because of the collapse of the unit but lack of supervision?

**Ms TITHERINGTON:** Yes, it is lack of supervision.

**CHAIRMAN:** For the information of members, Ms Titherington is the supervisor of a very large retailer. So her position is somewhat different to those of the two previous witnesses from which the Committee has taken evidence. We are

dealing with major sales of baby walkers here. Ms Titherington, what would be the effect on your company or business financially if baby walkers were banned?

**Ms TITHERINGTON:** Well, the customers do want the walkers. If we run out of them, our customers are totally disgusted that we have no walker to offer them. We will probably sell as many walkers as we do highchairs.

**CHAIRMAN:** To put it another way, what would be the percentage of baby walkers as part of your business?

**Ms TITHERINGTON:** I would say about 5 percent. That is just a rough guess.

**Mr HARRISON:** If we were to ban the sale of baby walkers, that would not send you broke, would it?

**Ms TITHERINGTON:** No, not at all.

**Mr CRUICKSHANK:** Would you have any idea how many units a year you would import and sell?

**Ms TITHERINGTON:** Not a year. On a weekly basis, it would be about 100.

**Mr CRUICKSHANK:** That is just in New South Wales?

**Ms TITHERINGTON:** Just in New South Wales.

**Mr CRUICKSHANK:** Do you sell into other States?

**Ms TITHERINGTON:** We have stores in Melbourne, Brisbane, and so on.

**Mr CRUICKSHANK:** How many stores do you have?

**Ms TITHERINGTON:** Twenty-nine. I did not bring those figures with me.

**Ms BEAMER:** As to the banning of baby walkers and the impact of that, there has been a suggestion that if there is a void created by the banning of those kinds of devices that keep children upright, that that void probably would be filled by other devices, like the Baby Boat article.

**Ms TITHERINGTON:** The Jolly Jumper.

**Ms BEAMER:** Yes, the Jolly Jumper and those kinds of things. The baby walkers could be replaced by items which are safer.

**Mr CRUICKSHANK:** Do you sell the type with a restraint on it which was demonstrated to the Committee?

**Ms TITHERINGTON:** This one here?

**Mr CRUICKSHANK:** Yes.

**Ms TITHERINGTON:** No. We do not sell anything like that - not with the toys on it or the stand.

**Ms BEAMER:** I think the importer gentleman said that they were relatively new.

**Mr ELCHEIKH:** The one with the stopper is new.

**Ms TITHERINGTON:** What does the stopper do?

**Ms BEAMER:** It stops it from moving.

**CHAIRMAN:** Can I have order. We are taking evidence so we must keep proceedings in some sort of order. What was the question?

**Ms BEAMER:** In terms of the effect of the banning of baby walkers on your business, there are other things that could fill the void caused by the ban. Mother has an amount of money to spend on the child's entertainment - because they are for entertainment. They are not like the highchair or the pram; they are an entertainment unit or toy. That money could be spent in other ways.

**Ms TITHERINGTON:** Yes.

**Mr JEFFERIS:** Ms Titherington, the Federal Minister, in the interests of reducing injuries to children from the use of baby walkers, requested retailers to voluntarily withdraw baby walkers from sale. Can you tell the Committee what Babyco's response to that request was?

**Ms TITHERINGTON:** We have not taken them off the market.

**Mr JEFFERIS:** But you are aware of that request by the Federal Minister? In fact, there have been several requests over the last couple of years.

**Ms TITHERINGTON:** Yes, we are. But our company has decided not to take them off the market because we have had no problems with our walkers at all, none at all. We have had no injuries or anything at all along those lines in all the time I have been with the company. I have not only been in the store but in the repair department and so on. I have been involved in all spheres of the Babyco company, and we have had no problems with the walkers. So, as a company, it was decided to keep them on the market.

**Mr JEFFERIS:** You are saying that inherently they have been safe and you have not had a problem with the ones you have sold, but you would have been aware of the injuries that the use of the baby walker has resulted in?

**Ms TITHERINGTON:** Yes.

**Mr JEFFERIS:** Is Babyco not concerned about the aspect of injuries arising from the use of the baby walker rather than from a defect in the product?

**Ms TITHERINGTON:** Yes, they are. When we are actually selling a unit, we have warning labels on the baby walker and when we sell the product we explain

to customers what they should and should not do with the walker. Of course, it is a supervisory issue. They must be under supervision at all times. Our product is sound, safe and secure, and if the mother does not look after the child ----

**Mr CRUICKSHANK:** It could head down the stairs.

**Ms TITHERINGTON:** That is right. My sister did exactly the same thing. She had a problem herself.

**CHAIRMAN:** If there are no further questions, we thank you for your assistance.

(The witness withdrew)



**General discussion session:**

**CHAIRMAN:** We were to have an open general discussion between the Committee members and the people who have given evidence, but many people have left because of the time factor. Is there any comment from the people who have given evidence so far?

**Mr ELCHEIKH:** Just on the issue of consumption of baby walkers and the lady mentioning about there being two importers, I think it is more than that. I assume it is more than 50,000 that would be sold a year. That is one thing. Another thing is about injuries. We sell a lot of products, and if people have any problems with their products they refer the problems back to us always. I am always there as the manager or whatever.

**CHAIRMAN:** Mr Elcheikh, you indicated that you would sell some 50,000 units a year.

**Mr ELCHEIKH:** Not us.

**CHAIRMAN:** Through your company?

**Mr ELCHEIKH:** Yes.

**CHAIRMAN:** What would be the value of those 50,000 items?

**Mr ELCHEIKH:** They are \$50 a unit. That is just not our company; that is other importers as well. It could be more, because I know a lot of opposition do sell them. On the injury side, any item we sell, if the customer has any problem, they will refer it back to us. No-one has ever mentioned a problem with baby walkers. You hear on the news and in the papers that there are a lot of injuries, but we have never had a problem.

**CHAIRMAN:** Well, the statistics are available, but we understand what you are putting to us. Are there any other comments?

**Mrs LIERSCH:** I don't know whether you have had any input or evidence as to how the babies use the walker when they get in it, but for the first two months they are incapable of going forward; they only go backwards, which means they are not looking where they are going. They will go in one direction until they hit something, and then they will go in another direction until they hit something. This is how it works. I do not know whether you have had any footage or anything like that. Basically, it is someone who is pretty blind steering something that has no controls.

**CHAIRMAN:** I thank those who have given evidence for their attendance.

(The witnesses withdrew)

(The Committee adjourned at 12.54 p.m.)