



Policy Team  
NSW Fair Trading

By email: [lithiumionbatteries@customerservice.nsw.gov.au](mailto:lithiumionbatteries@customerservice.nsw.gov.au)

To whom it may concern,

Thank you for the opportunity to provide feedback on the draft Information Standard for e-micromobility products under the *Fair Trading Regulation 2019* (the Regulation). The NSW Small Business Commission ('the Commission') is an independent statutory office of the NSW Government. It provides strategic advice, advocacy and affordable dispute resolution across NSW.

We appreciate the opportunity to engage in the recent roundtable session conducted by NSW Fair Trading and are aware of the safety concerns posed by the lithium-ion batteries and the need to ensure their safe and responsible use.

The Regulation Impact Statement (RIS) notes the potential pitfalls of NSW pursuing a regulatory approach that may differ from the requirements that operate in other jurisdictions. In this regard, the Commission favours regulatory approaches which fully explore the feasibility of a national approach, including by leveraging the architecture which underpins the Australian Consumer Law. The Commission welcomes further efforts to support harmonisation and consistency of requirements, and the ongoing commitment to nationally harmonised consumer policy.

### **Compliance and enforcement**

The Commission notes the proposed requirements would come into effect on 1 February 2025. We encourage consideration of how smaller suppliers can be supported to comply with these new requirements, particularly given the relative short period for which they are required to comply and as they enter one of their busiest periods of the year.

While the Commission encourages consideration of whether the February and August dates remain appropriate for small suppliers to comply (particularly for those who have existing stock or smaller suppliers who are unaware of the changes), compliance and enforcement initiatives should be tailored to reflect the challenges some suppliers may experience in meeting the requirements of the information standard in the near term.

Furthermore, the primary intent of the proposal is to foster education within the industry and among consumers. While the RIS outlines the penalties that will apply, more proportionate approaches for small businesses should be adopted to ensure the educational intent is upheld. This could include a transitional period that provides small businesses with sufficient time to comply with the new requirements.

### **Small business experiences with regulation**

You may also be interested to know the Commission recently conducted a [Review of small business experiences with regulatory policymaking](#). The review examined the experiences of small businesses as key stakeholders when new legislation, regulations, rules and other requirements are being developed. A

key finding of the review is that small businesses find it difficult to engage in consultation processes for a range of reasons.

Only 7 per cent of small businesses indicated they felt regulation was designed around their needs and only 13 per cent indicated they felt the benefits of regulation they were required to comply with outweighed costs.

The Commission encourages policymakers to engage small business stakeholders at the earliest opportunity and throughout the policy development cycle. Small businesses can be more confident in the benefits of regulation if the case for regulatory intervention has been properly established. This includes explaining how regulatory tools such as information standards would achieve identified benefits and more comprehensive assessment of costs and benefits, including quantification and sensitivity analysis where possible. In this regard, regulatory impact assessments, such as the RIS prepared for this information standard, should be prepared in accordance with the NSW Treasury guidelines.

Thank you for the opportunity to make a submission. If you require further information, please contact my Executive Officer, Megan Bennett, at either [commission@smallbusiness.nsw.gov.au](mailto:commission@smallbusiness.nsw.gov.au) or (02) 9372 8767.

Yours sincerely

Mark Frost  
**Acting Commissioner**  
**NSW Small Business Commission**

Date: 06/12/24