



AUSTRALIAN  
FURNITURE  
ASSOCIATION

## SUBMISSION

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**Senate Enquiry into Non-Conforming Building Products**

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**JANUARY 2017**

## **The Australian Furniture Association (AFA)**

The AFA is the peak national body for Australia's furnishing and design products industry. The AFA represents the industry's interests to governments, the general public and other stakeholders on the training and skills development, design, manufacture and distribution of furnishing products, for both locally manufactured and imported products. This industry supplies every living, working and recreational space in Australia including residential, commercial, health, education, government, public spaces, leisure and hospitality industries, to name a few.

The furnishing and design products industry is one of Australia's largest manufacturing industries (with importers considered to be manufacturers by law and respondents to any ACCC recalls or consumer complaints) and includes the following furnishing and design sectors:

### **Wooden Furniture and Upholstered Seat Design and Manufacturing in Australia**

This industry includes firms primarily engaged in the design and manufacture of wooden furniture and upholstered seating.

### **Metal Furniture Design and Manufacturing in Australia**

This industry includes firms primarily engaged in the design and manufacture of metal furniture.

### **Mattress Design and Manufacturing in Australia**

This industry includes firms primarily engaged in the design and manufacture of mattresses.

### **Textile Product Wholesaling in Australia**

Businesses in this industry includes textile importers and wholesale canvas blinds and awnings etc.

### **Hardware Wholesaling in Australia**

Operators in this industry include wholesale ceramic tiles, door hardware, components etc.

### **Carpet and Textile Floor Covering Manufacturing in Australia**

This industry includes firms primarily engaged in the design and manufacture of timber flooring and carpets.

The annual sector turnover is conservatively estimated to be worth approximately \$32 billion and approximately 250,000 people are directly employed along the industry value chain with a further 200,000 jobs supported through flow-on economic activity.

The AFA did not make a submission to the Senate Inquiry during the course of the 44<sup>th</sup> Parliament given that the emphasis at the time by the inquiry was focussed on products traditionally considered to be 'construction' related. However, given the seriousness of this issue to all businesses within the broader furnishing and design industries, the AFA believes it is important to reinforce the concerns already raised by others. The AFA concurs with a number of the previous and new submissions, now that this Inquiry has been "re-adopted" in the 45<sup>th</sup> Parliament.

In preparing this submission the AFA has had the benefit of analysing a number of the submissions made by other allied bodies in the furnishing and design and other industries. The AFA supports a number of the positions taken in relation to the concerns raised by those bodies in their respective submissions (in some cases without attribution). It is clear that many of the insights provided have a common theme and concern which needs to be addressed by the Senate.

We would stress though that the AFA recognises that locally designed and manufactured product must be competitive with imported products, and the issues raised in this submission **must not** be interpreted

as reflecting a push for some form of increased national protectionism. To the contrary this submission is a call for genuinely equitable treatment for all producers, suppliers and distributors of building (and indeed other) products, no matter where they are originally sourced.

The focus here is purely to help ensure that the health and safety of all Australians engaged in the supply, processing/finishing and installation/construction of building products, as well as those working/living in the resultant buildings, is fully, effectively and consistently safeguarded. This can only be ensured if mechanisms are in place to police and enforce full compliance with all Australian legislations, regulations, codes and Standards.

### **Impact of Non-compliant products**

A number of allied associations have highlighted the negative impact that non-compliant products are having on the Australian industry. These include loss of jobs, expensive and unproductive rework, and the construction of poor quality buildings. More importantly, however, is the increase in consumer complaints and product safety issues related to the poor quality of imported products resulting from poor policing of compliance requirements. This impact is not confined to the building industry itself, but is passed on to all suppliers of product and installation services to the building sector, which in effect is the design and construction of living, leisure, public and workplace environments populated by all Australians. Consequently, compliant manufacturing companies are experiencing eroded margins and reduced revenues due to the increasing presence of non-conforming products. Similar submissions made by other allied associations all address the concerns across the various industries.

### **The Regulatory Framework**

Australia has extremely good product standards produced by the Australian or joint Australian/ New Zealand standards systems. These reflect the product characteristics necessary to provide safe and reliable performance and continue to be reviewed as design and manufacturing innovation evolves. The National Building Code (NBC) references many of these.

The *Competition and Consumer Protection Act 2010* has not been an effective deterrent to prevent misrepresentation of product. Misleading branding, false documentation and false certification are all issues that the ACCC struggles with in the environment of direct import. The Act has failed to deter and has been unable to prosecute, particularly with lower profile cases or sporadic misrepresentation of product. The Furnishing and design industry represents a high percentage of breaches to the Act, with many small to medium enterprises, or sole traders assuming the role of importer/manufacturer.

The *Illegal Logging Prohibition Act 2012* is aimed to deter the import of timber products derived from illegally logged forest in foreign countries. It is an offence to import any log or timber product unless the importer undertakes due diligence to establish the legality of supply. Further, the onus is on any reseller of imported timber products to conduct their own due diligence to establish legality, even if they are not involved with the importation. Again, the furnishing and design industry represents a large percentage of imported timber products which do not meet the requirements.

**CASE STUDY: Recent statistics show that there is an increase in personal imports by unqualified individual's attempting to set up Furnishing businesses. Other industry sectors, particularly the gaming and hospitality sector, are also buying furnishing products directly from overseas sources. This practice deems the buyer/importer as the manufacturer and in these examples the importers are not furnishing sector trained nor familiar with the Illegal Logging Bill, or ACCC legislation in relation to mandatory or voluntary Australian Standards to protect consumers eg: gaming stools, cots and bunks etc.**

The key elements in this legislation in changing the behavior of importers and resellers has been:

- Ownership by the Federal Department of Agriculture and Water Resources to provide clear communication, administrative and legal direction.
- A "deemed to satisfy" method of conducting due diligence through Chain of Custody certification of suppliers which has removed the need for increased administration for resellers purchasing timber products.
- Any and all parties that sell timber products are responsible for ensuring compliance with the requirements of the Act.

Drafting of legislation to protect citizens from the impact of non-conforming building products therefore needs to encompass the 3 elements of ownership; be deemed to satisfy due diligence system through credible product certification; and the allocation of responsibility of all parties involved to comply with legislation. As well as a surveillance system and financial penalties for non-compliance.

If importers or resellers are found to have non-compliant products, then meaningful penalties need to be in place. If a financial penalty is not substantial, then the potential profit outweighs the risk of the penalty.

In summary, the lack of product surveillance (irrespective of source) together with the lack of financial disincentives for importing/selling non-compliant product generate an environment where non-compliance levels are significant and the public is put at risk.

Conclusion

The AFA wishes to make it very clear that it regards illegally logged products as potentially very detrimental to Australia's credibility and long-term export business – as these products will eventually be traced back to the source and Australia does not want to gain a reputation for being a half-way house for illegal forest products. It would be in Australia's interest to lead by example and adopt a simple solution of DNA testing random samples, to close the loop on falsified documentation. This solution could be funded by way of a levy to all industry bodies to manage their relevant sectors.

The AFA believes that importers should provide certificates of authenticity from the country of origin and random searches of suspect containers and shipping logs could be a solution to reduce costs. Taking example from other nations, France comprehensively inspects every car that is imported to France. Whilst we agree that this may be cost prohibitive, the French ensure each and every log /pallet is properly inspected and its paperwork checked. This process has resulted in the financial stability of three of its national manufacturers - Renault, Peugeot and Citroen.

The AFA also believes that companies which breach any of the Acts or Legislation related to importing non-conforming products should be listed along with the products in question, similar to the ACCC Product Recalls Website. The risk of brand damage would be a significant deterrent to any importer. Significant penalties should also apply.

The AFA believes that the retail sector plays an important role in the distribution of non-conforming products, particularly in the furnishing and design sector. It is important to educate this sector of its responsibility to demand that suppliers deliver products which meet Australian Standards and conform with the Acts and Legislation. In the case of the Retailer also acting as the Importer, then the consequences should be consistent with those of the traditional supplier/importer/manufacture.

The AFA welcomes the Australian Government's efforts to achieve greater transparency in eliminating the distribution of non-conforming products, and as a high-risk industry the need to meet strict State and

Commonwealth regulatory measures aligned with internationally recognised processes is our imperative.

The AFA proposes the introduction of industry specific education & training and outreach activities such as preparation of tailored furniture industry specific compliance materials; a series of practical due diligence and compliance training and support workshops for importers in Australia; and a series of support events in key manufacturing trading countries such as China, Malaysia Indonesia and Thailand.

The *Illegal Logging Prohibition Act 2012* and associated Regulations impose due diligence requirements on importers of most furniture made from or containing wood. Importers of furniture (Chapter 94 tariff codes) comprise 50% of the importers of Regulated Timber Products.

Whilst government information toolkits are available, it is the AFA's experience that the guidance and tools needs to be better tailored to importers of furniture/furnishings and any furnishing products. For example – existing information does not adequately cover circumstances where timber is contained within furniture and not visible to the naked eye (i.e. frames of upholstered sofa) or import of product made with composite wood products (e.g. MDF or particleboard) with fibre from multiple countries. This complexity is not found in imports of simple timber products.

There is also a clear need for tailored training workshops in due diligence for importers of furnishing products in Australia.

There is also a demand for implementing outreach activities for suppliers of furnishings from key overseas manufacturing countries as the AFA has noted very limited understanding of the Australian requirements by these important stakeholders and is constantly invited to present at international trade events on this topic.

Critical information tools and outreach activities will greatly assist the understanding of, and compliance with the Regulations minimise the risk of problems with implementation, particularly with imports from low risk countries and sensitive trading partners.

A tailored education and training program would assist in minimising the risks across all supply chains, including off shore manufacturers, and business or individual importers.

The introduction of random audits, which involve DNA Testing of samples, is also recommended.

The Australian Furniture Association would welcome and opportunity to assist in the development of these recommendations and/or others submitted by allied associations.

This submission is made on behalf of the Australian Furniture Association and industry stakeholders.

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