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Our ref: C2025-00096

Mr Peter Cain MLA

Chair

Standing Committee on Legal Affairs (Legislative Scrutiny Role)

Legislative Assembly for the Australian Capital Territory

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February 2025

Dear Mr Cain

Thank you for the Standing Committee on Legal Affairs' provision of Scrutiny Report 1 of 28 January 2025. I note that the Committee has made comments about DI2024-273 being the *Road Transport (Safety and Traffic Management) Protective Helmet for Bicycle Riders Approval 2024 (No 1)* in paragraphs 2.6 to 2.12 of the report and that the Committee has sought a response about the possibility of providing access to the standards referenced in the instrument at a government location for inspection.

At this stage, it is not considered practicable or necessary to provide the option of inspecting the standards at an ACT government location. The instrument amending the applicable standards for bicycle helmets in the ACT was introduced in response to national legislative changes by the Australian Competition and Consumer Commission (ACCC). This alignment of ACT legislation with national requirements was undertaken to prevent potential disadvantage to bicycle helmet consumers and suppliers in the ACT, as well as conflict with Commonwealth law that would leave the ACT arrangements open to challenge in Federal Court.

Some of the standards referenced have been developed under non-governmental arrangements in line with the broader standards development arrangements currently in place in Australia and many other markets. The standards are technical in nature and used by those producing, testing and

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supplying helmets and access to standards forms part of their commercial operations. While the instrument requires helmets to meet the referenced standards, government vehicle inspectors and Police enforcing road transport laws in the ACT do not have the expertise, facilities or equipment to determine whether a helmet actually meets the standard or not. Typically, they will identify the relevant markings or labels on the helmet identifying a standard and determine if the helmet is fitted and appropriately adjusted, and whether the helmet is in good order without damage that might render it unable to comply with the applicable standard. Many of the tests to determine if a helmet meets a standard or not are destructive tests.

In addition to the referenced standards that are publicly available online, there are several avenues available to those who wish to view the standards referenced in the national legislation and subsequent ACT legislation. The ACCC has public-facing information stating that the standards can be made available for viewing at an ACCC office subject to licensing conditions.

As you have noted, Standards Australia also has arrangements for those who have a non-commercial interest to access Australian standards such as those referenced in the instrument. In light of the responsible policy area being unaware of any previous approach to view the standards referenced in the earlier instruments I do not consider it appropriate to make the standards available for inspection at an ACT government location.

Should an approach be made to the relevant policy or operational areas to view or obtain copies of the standards, those areas will assist in providing the possible options available to obtain or view those standards.

Thank you for bringing this matter to my attention. I trust this information is of assistance.

Yours sincerely



Tara Cheyne MLA
Minister for City and Government Services