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Claudia Iori
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7 June 2023

By email: cpuresponses@courts.vic.gov.au
[REDACTED]

Dear Claudia

Investigation into the death of [REDACTED]

Thank you for providing a copy of Coroner McGregor's Finding without inquest into the death of [REDACTED], and the opportunity to respond to the Coroner's recommendations.

The findings recommended that the Australian Competition and Consumer Commission (ACCC):

- make 20 per cent oxygen dilution of helium in balloon kits mandatory, as well as the possibility of the addition of an aversive agent similar to aerosol cans of compressed air used for dusting electronic equipment;
- reconsider the feasibility of introducing mandatory modifications to helium cylinders in order to limit the ability of individuals to produce a steady flow to enact suicide plans;
- continue to work with industry and commercial operators to inform any potential regulatory or other interventions that they may consider in the future to reduce the risk of inert gas inhalation involving balloon helium.

Mandatory safety standard for non-refillable helium cylinders

The ACCC is responsible for promoting consumer safety and administers the product safety provisions of the Australian Consumer Law (ACL) designed to ensure consumer products are safe.

In December 2022 the ACCC made a recommendation to the Minister that a mandatory safety standard for non-refillable helium cylinders be implemented. The Minister accepted the ACCC's recommendations in early 2023. Following the Minister's acceptance, the ACCC implemented the Coroner's recommendation of making the dilution of helium gas with oxygen gas of 20% mandatory for non refillable helium cylinders.

On 16 April 2023 the mandatory safety standard ([Consumer Goods \(Non-refillable Helium Cylinders\) Safety Standard 2022](#)) for all non-refillable helium cylinders supplied in Australia came into effect. This means that from 16 April 2023, suppliers must (by law) comply with the requirements of the mandatory safety standard. Significant penalties apply to those

suppliers who do not. The mandatory safety standard applies to the sale of non-refillable helium cylinders to intermediaries and consumers.

The mandatory safety standard makes it much more difficult to misuse non-refillable helium cylinders for suicide by requiring a mixture of 21% +/- 1.0% oxygen and 79% helium. This means that attempted use will result in unpleasant side effects associated with cumulative levels of carbon dioxide and delayed loss of consciousness, providing opportunities for reconsideration by the user and intervention by others, compared to a 100% helium mixture.

The mandatory safety standard also includes a requirement to add labelling to the cylinder and/or secondary packaging to advise that the cylinder contains an oxygen and helium blend. It also requires warnings about inhalation of the gas such as 'do not inhale' and 'may cause suffocation'.

The mandatory safety standard does not apply to refillable helium cylinders. The ACCC's research indicates that the purchasing or renting of these products generally requires the customer to either establish an account with the supplier and/or provide identification. They are generally supplied to commercial operators and smaller businesses. It would appear that the heightened barriers to access these cylinders provides a deterrent at this time. However, following the introduction of the mandatory safety standard the ACCC will monitor the market to assess whether regulatory intervention results in any behavioural change.

Product Modification to helium cylinders

The Coroner's findings also recommended that the ACCC reconsider the feasibility of the introduction of mandatory modifications to helium cylinders in order to limit the steady air flow of helium, thereby hindering suicide plans.

The ACCC has considered modifications to the product to prevent or minimise the continuous flow of helium gas. However, the ACCC was advised that this type of mechanism is yet to be developed. In the event that it was possible to modify the gas bottle hardware to prevent the continuous flow of gas from the helium bottle, the same high purity of helium would still be present in the non-refillable helium cylinders, which would likely not be effective in reducing suicides although it may take longer for the person to achieve suicide.

The addition of a bittering agent was also considered but was found as not likely to be a significant barrier for someone determined to use a non-refillable helium cylinder for suicide purposes, and would have little impact on suicide rates. A bittering agent to helium cylinders would also result in unpleasant effects for legitimate users. Balloons inflated with the adulterated gas may smell unpleasant, especially if the chemical leaches from the balloons. Popping balloons can result in an unpleasant smell at the location, especially if this was indoors.

For these reasons the ACCC's recommendation was to implement a mandatory safety standard for non-refillable helium cylinders requiring the cylinders to be diluted with 21% +/- 1.0% oxygen.

Monitoring of the mandatory safety standard

The Coroner's findings also recommended that the ACCC continue to work with industry and commercial operators to inform any potential regulatory or other interventions.

The ACCC has been undertaking activities to inform suppliers and stakeholders of the new mandatory safety standard. The ACCC will monitor compliance through its routine surveillance program and continue to assess the relevance of product safety regulation as part of its ongoing review program. The ACCC will also monitor data on the use of helium and substitution to other gases.

Should you wish to discuss this letter please contact me on [REDACTED]
[REDACTED]

Yours sincerely

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Neville Matthew
General Manager
Risk Management and Policy
Consumer Product Safety Division