

2008 Fireworks Reform
Regulatory Impact Statement

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A. Background to this Statement

This document is a regulatory impact statement (RIS) that is intended to guide policy formation on reforms to the consumer fireworks regime under the *Dangerous Substances Act 2004* (the Act). The reforms would be given effect through the Dangerous Substances (Explosives) Regulation 2004 (the Regulation).

The reforms considered in this RIS relate to the 2008 fireworks season only. The Government has announced that the Queen's Birthday fireworks period will go ahead in 2008 but that there may be some changes to rules surrounding the sale of fireworks and the permitted discharge periods. This is because the fireworks industry is required to order stock well ahead of the Queen's Birthday long weekend and reforms such as an outright ban or changes to the composition of consumer fireworks would adversely affect the industry's ability to order fireworks. As such, further reforms to consumer fireworks may be considered in 2008/09.

This RIS has been prepared in accordance with the *Legislation Act 2001* and the ACT Government *Best Practice Guide for Preparing Regulatory Impact Statements*, dated December 2003.

Relevant documents cited in this RIS include:

- Winston Sustainable Research Strategies, *Research on the ACT's Consumer Fireworks Regime, Final Report Conducted for The Office of Industrial Relations, ACT Chief Minister's Department*, 16 March 2008, available at http://www.psm.act.gov.au/oir_fireworks.html ;
- *Dangerous Substances Act 2004*, available at <http://www.legislation.act.gov.au/a/2004-7/default.asp> ;
- Dangerous Substances (Explosives) Regulation 2004, available at <http://www.legislation.act.gov.au/sl/2004-10/default.asp> ;
- *Review of the Dangerous Substances Act 2004, Discussion Paper*, available at http://www.psm.act.gov.au/oir_fireworks.html ; and
- *Report on the Review of the Dangerous Substances Act 2004*, February 2008, available at http://www.psm.act.gov.au/oir_fireworks.html .

B. Background to the Review

The Act provides a statutory framework for regulating the management of dangerous goods and hazardous substances to minimise the risk these materials can pose to the health and safety of people working with these substances, the general community and the environment. Section 224 of the Act required the Minister for Industrial Relations to review the operation of the Act as soon as possible after 30 June 2007 (the Review) and present a report of the outcome of the Review to the Legislative Assembly on or before the 3rd sitting day in 2008. The Minister for Industrial Relations tabled the report on the review on 14 February 2008.

A Discussion Paper was developed to assist individuals and organisations to understand the purposes of the Act and to provide some indications of how it has operated since 2004. It

invited those who have an interest in, and experience of, the operation of the Act to make written submissions to the Review.

The ACT's consumer fireworks regime is also regulated under the Act and was specifically included as part of the Review.

C. Community Engagement on Consumer Fireworks

In light of the level of sensitivity and interest in the consumer fireworks component of the review, the Government engaged an independent consultant to undertake targeted consultation to ascertain public opinion and to ensure all views, concerns and ideas were heard. The purpose of the consultation was to inform the Government of the:

- level of support or opposition;
- reasons for support (for example, enjoyment or livelihood i.e. people whose business, or part of, relies on the sales of consumer fireworks);
- reasons for opposition (for example, concerns about illegal activity, public safety, national security, noise, animal welfare, antisocial behaviour);
- options and potential level of support for further regulation (for example, to ban consumer fireworks outright and limit the use of fireworks to licensed pyrotechnicians or to reduce the use of consumer fireworks from three nights over the June long weekend to a single night, and reduce the sale period from one week to one or two days); and
- the economic contribution of consumer fireworks.

The consultant conducted market research which included an online community survey that was launched with the Discussion Paper, a random telephone survey of 1000 Canberreans and a series of focus group discussions and in depth interviews with the community and industry. The focus groups and interviews were designed to establish views on a series of options developed as a result of the consultations.

In addition, the Chief Minister's Department held two public meetings on consumer fireworks in November 2007.

D. Summary of the Consumer Fireworks Regime

The main features of the consumer fireworks regime under the Regulation are as follows:

Consumer firework are:

- fireworks such as roman candles and are a class of specified low hazard fireworks authorised for sale to the public for use over the Queen's Birthday Long Weekend; and
- contain a limited amount of explosive material, have a restricted discharge area, and do not contain explosive substances that create a loud bang.

Consumer fireworks can be sold to members of the general public only:

- by licensed sellers;
- from licensed premises;
- for a specified period of time each year; and

- with the issue of a receipt that includes evidence that the person is a resident of the ACT and at least 18 years old (“the consumer receipt”).

Approved consumer fireworks can be discharged only:

- within the ACT;
- during the Queen’s Birthday long weekend in the year in which they were purchased;
- between the hours of 5.00pm and 10.00pm;
- by the purchaser or someone under their supervision; and
- in places other than public streets and parks unless prior written approval has been obtained (i.e. generally only permitted in private backyards).

Other notable features of the consumer fireworks regime include:

- individuals may only store a maximum of 25 kg of consumer fireworks at any one time;
- licensed retailers may only store a maximum of 200 kg at retail premises at any one time; and
- licensed sellers are only permitted to advertise consumer fireworks for a 15 day period (seven days prior to the sale period plus the eight days of the sale period).

There are penalties associated with the consumer fireworks regime. Generally, the specific the penalties set out in the regulation for the illegal use, sale and storage of consumer fireworks range from 10 to 30 penalty units (equates to a maximum penalty of \$1000-3000 for individuals and \$10,00-15,000 for corporations). Infringement notices may also be issues for a number of offences including:

- supplying a consumer firework outside the Queen’s Birthday supply period (\$400);
- supplying a consumer firework to a child or non-ACT resident (\$600);
- displaying a consumer firework for sale outside the Queen’s Birthday supply period (ranges from \$200-600);
- failing to comply with prescribed storage and labelling requirements (\$200-600);
- failing to record prescribed details when selling consumer fireworks (\$200-600); and
- illegal use of consumer fireworks – including outside permissible days/times and general misuse such as in a way that may endanger property(\$400-600).

There are also serious offences in the principal Act that may apply in relation to more serious conduct, or where breaches result in serious harm or injury to people, property or the environment. Penalties for these offences include significant maximum penalties, including imprisonment.

Data in relation to the sale of consumer fireworks, including the number of related complaints, injuries, dog related incidents and reported damage to property is at [Attachment B](#). The data is from the years 2002 to date and includes a comparison between the past and current consumer fireworks regimes.

E. Problem with the Current Regulation

The regulation of consumer fireworks is clearly a contentious issue within the Canberra community. The outcomes of the consultations show that the Canberra community is fairly evenly divided about whether members of the public should be able to buy and discharge consumer fireworks.

Throughout the consultations, the most frequently mentioned positive aspects of fireworks are that they are “spectacular, great for children, professionally organised and bring the community and families together.”¹ Whereas the most frequently mentioned negative aspects of fireworks are that they “upset or harm animals and wildlife, are disorganised and dangerous, are used at inappropriate times, are noisy and disturbing, are likely to cause fires and personal injury and teach children bad habits.”²

There is no one solution that will satisfy all members of the community. However, there is clearly a community desire to make some changes (whether it be a ban or otherwise) to the fireworks regime. Industry is also accepting of a level of change and improvement to the regime (in preference to an outright ban).

However in addressing reforms, there are two key issues to consider. First, there are concerns caused by the *illegal* use of fireworks and second, there are concerns within the community about the impact of the *legal* use of fireworks. As mentioned in Section A above, the reforms considered in this RIS relate to the 2008 fireworks season only. The Government has announced that the Queen’s Birthday fireworks period will go ahead in 2008 but that there may be some changes to rules surrounding the sale of fireworks and the permitted discharge periods. This is because the fireworks industry is required to order stock well ahead of the Queen’s Birthday long weekend and reforms such as an outright ban or changes to the composition of consumer fireworks would adversely affect the industry’s ability to order fireworks. As such, further reforms to consumer fireworks may be considered in 2008/09.

This RIS addresses the concerns caused by the *illegal* use of fireworks through the reduction in the legal supply period (see Section 1 below). However, the remaining options largely focus on minimising the adverse impacts from the *legal* use of fireworks.

F. Mutual Recognition

The ACT is one of the few jurisdictions in Australia that allows for the private purchase and discharge of fireworks. In Tasmania fireworks are available to members of the public in limited circumstances all year round but this regime is currently under review. At present, ‘type 2 fireworks’ (shop goods or small retail fireworks) are permitted with a permit. Displays are restricted via the requirement for a display to occur at least 50 metres from a building, vehicle or roadway. The permit process requires the consent of police, the fire service and the local authority. ‘Type 3 fireworks’ (large retail fireworks such as rockets) are permitted by licensed shot firers only.

¹ Winston Sustainable Research Strategies, *Research on the ACT’s Consumer Fireworks Regime, Final Report Conducted for The Office of Industrial Relations, ACT Chief Minister’s Department*, 16 March 2008, page 4

² *ibid*, page 4

In the Northern Territory “shopgoods” fireworks (the equivalent of consumer fireworks in the ACT) are available to the public for Territory Day on 1 July each year. Fireworks can be sold by license holders to persons over 16 years of age. Fireworks are available for sale on 30 June and 1 July between 9:00 am and 9:00 pm. Fireworks may only be ignited on 1 July between 6.00 pm and 11.00 pm.

All other states have banned the use of fireworks by members of the public. A summary of the ‘Regulation of Consumer Fireworks in Australian Jurisdictions’ is at [Attachment A](#).

G. Relevant stakeholders

There are a range of stakeholders that may be impacted by the adoption of the proposals outlined in this RIS. Stakeholders have been categories into four groups as follows:

Group No.	Stakeholder Group Name	Stakeholders included
1	Business/ Industry	<ul style="list-style-type: none"> ▪ importers of consumer fireworks ▪ wholesalers of consumer fireworks ▪ existing businesses that sell consumer fireworks ▪ businesses established to sell consumer fireworks only ▪ industry organisations including Fireworks Australia
2	Government	<ul style="list-style-type: none"> ▪ the Territory ▪ the Office of Industrial Relations (policy) ▪ the Office of Regulatory Services (regulator) ▪ ACT Policing (regulator) ▪ the Domestic Animal Service (TAMS) ▪ Emergency Services
3	Community	<ul style="list-style-type: none"> ▪ individuals in the Territory ▪ pet owners in the Territory ▪ community organisations including the RSPCA
4	Environment	<ul style="list-style-type: none"> ▪ the natural environment in the Territory ▪ the built environment in the Territory ▪ native wildlife

H. Implementation

Reforms will be enacted through amendments to the Regulation prior to the 2008 Queen’s Birthday long weekend.

Options for reform will be developed in consultation with the Office of Regulatory Services and the fireworks industry.

Primary responsibility for implementation of the changes rests with the Department of Justice and Community Safety. The proposed implementation strategy is as follows:

- a. general promotion: for example, public notices; stakeholder awareness raising, guidance material;
- b. industry briefings: sessions will be convened ahead of the Queen's Birthday long weekend;
- c. training and development: for example, in-house training of ORS staff and inspectors; and
- d. statutory requirements: for example, the design and printing of new forms.

I. Specific Proposals for Reform

1. SALE PERIOD TO SELL/PURCHASE FIREWORKS

1.1 Background

Section 274 of the Regulation prohibits the sale of fireworks in the ACT at any time outside the ‘Queen’s Birthday supply period’ which starts seven days before the second Monday in June (i.e. seven days before the official Queen’s Birthday weekend). The period starts at 8:00am on the first Monday in June and ends at 5:00pm on the second Monday in June. Anecdotal evidence suggests that the majority (perhaps up to 80 per cent) of fireworks are sold over the Friday before the long weekend and the Saturday and Sunday of the long weekend.

1.2 The Problem

In effect, consumer fireworks may be sold for an eight day period, including a full five days ahead of the permissible discharge times. This may give rise to members of the community purchasing fireworks and illegally discharging them ahead of the permissible days. However, a more likely scenario for the illegal use of consumer fireworks is that they are used after the Queen’s Birthday long weekend.

1.3 Objective of Government Intervention

To minimise the potential for the illegal use of consumer fireworks prior to the Queen’s Birthday long weekend.

1.4 Mutual Recognition

The Northern Territory has a two day sale period which falls on 30 June and 1 July (from 9:00 am to 9:00 pm); also see Section *F. Mutual Recognition* above.

1.5 The Options

Option 1 – maintain the status quo

Option 2 – reduce the sale period to the weekend only

Option 3 – reduce the sale period to three days (including a week day)

1.6 Impact Analysis

OPTION 1 – MAINTAIN THE STATUS QUO

Under this option fireworks would continue to be sold over the eight day period.

	ADVANTAGES	DISADVANTAGES
Business/ Industry	▪ no new requirements	

	ADVANTAGES	DISADVANTAGES
Government	<ul style="list-style-type: none"> no new costs to the regulator, eg. no need to update systems, forms, guidance materials 	
Community	<ul style="list-style-type: none"> enables flexibility in purchases over a week long period (ie five weekdays and the entire long weekend) 	<ul style="list-style-type: none"> potential for the illegal use of fireworks bought prior to the long weekend possible adverse impact on domestic animals prior to the long weekend from potential illegal use of fireworks before the long weekend
Environment		<ul style="list-style-type: none"> possible adverse environmental impacts prior to the long weekend from the potential illegal use of fireworks before the long weekend

OPTION 2 – REDUCE THE SALE PERIOD TO THE WEEKEND ONLY

Under this option fireworks would be sold over a reduced sale period for the weekend only.

	ADVANTAGES	DISADVANTAGES
Business/ Industry	<ul style="list-style-type: none"> minimal new compliance requirements for change in sale period 	<ul style="list-style-type: none"> may encounter demand issues from being unable to sell fireworks on the Friday possible reduction in sales and loss of profit and business opportunities
Government		<ul style="list-style-type: none"> minor increased regulatory costs (ie. update systems, forms, guidance material) some increased regulatory pressure during the sale period to ensure compliance minor education costs to inform public and licensed sellers of new sale period
Community	<ul style="list-style-type: none"> minimal risk of adverse impacts from illegal use of fireworks before the long weekend 	<ul style="list-style-type: none"> decreased opportunity to purchase fireworks if sales are restricted to the Saturday and Sunday of the long weekend – specifically no opportunity to purchase fireworks on a weekday

	ADVANTAGES	DISADVANTAGES
Environment	<ul style="list-style-type: none"> minimal risk of adverse environmental impacts from the use of fireworks prior to the long weekend 	

OPTION 3 – REDUCE THE SALE PERIOD TO THREE DAYS (INCLUDING A WEEK DAY)

Under this option fireworks would be sold over a reduced sale period of three days, one of which would include a week day (most likely the Friday before the long weekend).

	ADVANTAGES	DISADVANTAGES
Business/ Industry	<ul style="list-style-type: none"> allows sales on a weekday, ie on the Friday minimal new compliance requirements for change in sale period 	<ul style="list-style-type: none"> possible minor reduction in sales, profit and business opportunities
Government		<ul style="list-style-type: none"> minor increase in regulatory costs (ie. update systems, forms, guidance material) some increased regulatory pressure during the sale period to ensure compliance minor education costs to inform public and licensed sellers of new sale period
Community	<ul style="list-style-type: none"> flexibility to purchase fireworks on the Friday before the long weekend as well as the Saturday and Sunday of the long weekend 	<ul style="list-style-type: none"> some potential for the illegal use of fireworks prior to the long weekend (ie Friday night)
Environment		<ul style="list-style-type: none"> possible risk of adverse environmental impacts from the potential illegal use of fireworks on the Friday before the long weekend

1.7 Conclusions and Recommended Option

PREFERRED OPTION:	Option 3 – REDUCE THE SALE PERIOD TO THREE DAYS (INCLUDING A WEEK DAY)
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Options 3 is preferred because it may assist in reducing problems (i.e. noise, anti-social behaviour etc) associated with the possible illegal use of fireworks prior to the long weekend. By allowing sale of consumer fireworks on a weekday as well as the weekend it takes into account the accessibility for people with shift and weekend work. This option will also have the least impact on business as anecdotal evidence suggests that eighty per cent of fireworks are sold during this period anyway.

1.8 Implementation

See discussion at Section *H. Implementation* above.

2. CONSUMER FIREWORKS DISCHARGE NIGHTS

2.1 Background

Section 295 of the Regulation provides that a person may only use consumer fireworks during the ‘Queen’s birthday weekend use period’ which is:

- (a) the 2nd Monday in June;
- (b) the Saturday and Sunday immediately before that Monday.

2.2 The Problem

The use of fireworks over three nights on the Queen’s Birthday long weekend (Saturday, Sunday and Monday) may prolong any adverse impacts from the legal use of fireworks.

2.3 Objective of Government Intervention

To minimise the distress caused to members of the public and animals caused by the legal use of fireworks whilst at the same time allowing reasonable use of fireworks by those members of the community who enjoy them.

2.4 Mutual Recognition

The Northern Territory has a one night discharge which falls on 1 July, also see Section *F. Mutual Recognition* above.

2.5 The Options

Option 1 – maintain the status quo

Option 2 – reduce the use of fireworks to one night over the Queen’s Birthday long weekend with the option to change the designated night in cases of inclement weather

Option 3 – reduce the use of fireworks to two nights over the Queen’s Birthday long weekend

2.6 Impact Analysis

OPTION 1 – MAINTAIN THE STATUS QUO

Under this option fireworks would continue to be used over the three day period.

	ADVANTAGES	DISADVANTAGES
Business/ Industry		
Government	<ul style="list-style-type: none">▪ no new costs to the regulator, eg. no need to update systems, forms, guidance materials	

	ADVANTAGES	DISADVANTAGES
Community	<ul style="list-style-type: none"> ▪ flexibility over which night to use fireworks 	<ul style="list-style-type: none"> ▪ possible adverse impacts on the community from noise, including those with children ▪ possible adverse impact on pets and their owners from the use of fireworks over three nights
Environment		<ul style="list-style-type: none"> ▪ possible adverse environmental impacts from the use of fireworks over three nights

OPTION 2 – REDUCE THE USE OF FIREWORKS TO ONE NIGHT ONLY WITH THE OPTION TO CHANGE THE DESIGNATED NIGHT IN CASES OF INCLEMENT WEATHER

Under this option fireworks would be permitted for one night only over the Queen’s Birthday long weekend. However, in the case of inclement weather the Minister would have the option to announce that fireworks may be used on another night instead.

	ADVANTAGES	DISADVANTAGES
Business/ Industry		<ul style="list-style-type: none"> ▪ possible reduction in sales and loss of profit and business opportunities if people buy less fireworks to use on the one night
Government		<ul style="list-style-type: none"> ▪ minor increased regulatory costs, i.e. update systems, forms guidance materials ▪ minor education costs to inform the public of the new restrictions on use ▪ education costs (through public announcements) in the event of inclement weather
Community	<ul style="list-style-type: none"> ▪ reduces adverse impacts on pets and pet owners from the legal use of fireworks by limiting it to one night ▪ potentially limits the amount of noise on the community, including those with children (i.e. by two-thirds) 	<ul style="list-style-type: none"> ▪ only one night that the public can enjoy fireworks ▪ may increase the intensity of noise experienced over the single night
Environment	<ul style="list-style-type: none"> ▪ potentially limits the adverse environmental impacts from the legal use of fireworks to one night (i.e by two-thirds) 	<ul style="list-style-type: none"> ▪ may increase the intensity of noise experienced over the single night

OPTION 3 – REDUCE THE USE PERIOD TO TWO NIGHTS

Under this option fireworks would be permitted for two nights over the Queen’s Birthday long weekend.

	ADVANTAGES	DISADVANTAGES
Business/ Industry		<ul style="list-style-type: none"> possible minor reduction in sales and loss of profit and business opportunities if people buy less fireworks to use over the two nights
Government		<ul style="list-style-type: none"> minor increased regulatory costs, ie update systems, forms guidance materials minor education costs to inform the public of the new restrictions on use
Community	<ul style="list-style-type: none"> flexibility over which night to use fireworks reduces adverse impacts on pets and pet owners from the legal use of fireworks by limiting it to two nights potentially limits the amount of noise on the community, including those with children (i.e. by one-third) 	<ul style="list-style-type: none"> only one-third reduction in possible adverse impacts on pets and pet owners from the use of legal fireworks
Environment	<ul style="list-style-type: none"> potentially reduces the adverse environmental impacts from the legal use of fireworks to two nights (i.e by one third) 	<ul style="list-style-type: none"> only one-third reduction in possible adverse environmental impacts from the use of legal fireworks

2.7 Conclusions and Recommended Option

PREFERRED OPTION:	<p>Option 2 – REDUCE THE USE OF FIREWORKS TO ONE NIGHT ONLY WITH THE OPTION TO CHANGE THE DESIGNATED NIGHT IN CASES OF INCLEMENT WEATHER</p> <p>or</p> <p>OPTION 3 – REDUCE THE USE PERIOD TO TWO NIGHTS</p>
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Reducing the discharge period is preferred over the status quo as it enables the Government to appropriately address the possible adverse impacts from the use of legal fireworks on the community, including pets and pet owners, and the environment.

Option 2 would reduce the length of negative impact of noise associated with the legal use of fireworks, potentially by up to two-thirds. It also gives the Government the opportunity to move the designated night in cases of inclement weather to give members of the public an opportunity to use their fireworks – however this is likely to incur a financial cost (as would be best achieved via public and community announcements). There would also be a chance that some members of the community are not informed about the night change. Option 1 is also likely to increase the impact and noise levels experienced over the single discharge night (as all crackers are being discharged at the same time).

Option 3 would only reduce the negative impact of noise associated with the legal use of fireworks by up to one-third. However it would give people more flexibility around the discharge of fireworks, would spread the impact of fireworks over two nights, and reduce the chance of having to change nights in the event of inclement weather (which is likely to attract a cost and may attract a level of confusion or ignorance).

2.8 Implementation

See discussion at Section *H. Implementation* above.

3. STORAGE CAPACITY FOR LICENSED SELLERS OF CONSUMER FIREWORKS

3.1 Background

Section 286 (c) of the Regulation provides that a licensed seller may only store a maximum of 200 kg of consumer fireworks on a premises at any one time (in accordance with prescribed safety standards). In effect, 200 kg of fireworks, sold in 25 kg bags (the maximum amount allowed per customer) would only serve eight customers.

3.2 The Problem

Some members in the industry consider that 200 kg of stock on premises at one time is insufficient and that it raises a safety concern if stock is continuously being replaced in that the fireworks must be transported by road (albeit in accordance with prescribed safety standards) between a magazine and a retail premises. The amount of fireworks being transported over the sale period may be unnecessarily excessive (and this could be marginally increased if the sale period is shortened).

3.3 Objective of Government Intervention

The objective is to appropriately manage the use of consumer fireworks for the 2008 season so as to protect the public, property and the environment whilst not imposing unnecessary burden on persons selling consumer fireworks.

3.4 Mutual Recognition

See Section *F. Mutual Recognition* above.

3.5 The Options

Option 1 – maintain the status quo

Option 2 – increase the maximum storage capacity for licensed sellers

3.6 Impact Analysis

This restriction was not specifically covered in the consultant's report; however it was raised as an issue at the Public Meetings on consumer fireworks in November 2007.

OPTION 1 – MAINTAIN THE STATUS QUO

Under this option, licensed sellers may continue to store a maximum of 200 kg of consumer fireworks at a premises of sale at any one time.

	ADVANTAGES	DISADVANTAGES
Business/ Industry		<ul style="list-style-type: none"> ▪ requires business to have constant transportation arrangements for replacement stock particularly between Friday before the long weekend and Sunday of the long weekend when the majority of fireworks are sold
Government	<ul style="list-style-type: none"> ▪ no new costs to the regulator, eg. no need to update systems, forms, guidance materials 	
Community		<ul style="list-style-type: none"> ▪ possible minor delay in purchasing fireworks ▪ possible risk to safety due to the number of trips required to re-stock premises
Environment		<ul style="list-style-type: none"> ▪ possible risk to the environment due to the number of trips required to re-stock premises

OPTION 2 – INCREASE THE MAXIMUM STORAGE CAPACITY FOR LICENSED SELLERS

Under this option, licensed sellers may store an increased maximum of consumer fireworks (up to 500 kg) at premises of sale, which is still within the safe storage limit.

	ADVANTAGES	DISADVANTAGES
Business/ Industry	<ul style="list-style-type: none"> ▪ may mitigate any demand issues raised by any decrease in the sale period (i.e. queues, running out of stock etc) ▪ less trips required to re-stock premises 	<ul style="list-style-type: none"> ▪
Government	<ul style="list-style-type: none"> ▪ 	<ul style="list-style-type: none"> ▪ minimal implementation costs (met via planned industry briefings ahead of the 2008 season)
Community	<ul style="list-style-type: none"> ▪ less likely to have to wait for sellers to re-stock before you can buy ▪ less possible risk to safety as fewer trips required to re-stock premises 	<ul style="list-style-type: none"> ▪

	ADVANTAGES	DISADVANTAGES
Environment	<ul style="list-style-type: none"> ▪ less possible risk to the environment as fewer trips required to re-stock premises 	<ul style="list-style-type: none"> ▪

3.7 Conclusions and Recommended Option

PREFERRED OPTION:	Option 2 – INCREASE THE MAXIMUM STORAGE CAPACITY FOR LICENSED SELLERS
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- Option 2 is preferred as it:
 - may reduce the negative impact of long queues caused by insufficient stock in licensed premises; and
 - reduce the number of times fireworks are transported by road in the Territory and therefore reduce the risk to safety.

The current prescribed safety standards set out in the Regulation remain relevant for storage of 500 kg of consumer fireworks, however retailers would need to assess whether their own policies and practices continue to satisfy the prescribed safety standards in light of any increased capacity.

3.8 Implementation

See discussion at Section *H. Implementation* above.

4. INTRODUCING A NOTIFICATION SYSTEM FOR CONSUMER FIREWORKS

4.1 Background

Unlike general use fireworks, there is no requirement for members of the public who use consumer fireworks over the Queen’s Birthday long weekend to notify relevant authorities (such as the ACT Fire Brigade), and neighbours etc about the intended use of the fireworks.

4.2 The Problem

Members of the community do not know if people in their neighbourhood/ close proximity to their homes intend to use fireworks over the Queen’s Birthday long weekend, and as such do not know whether to make arrangement for the care of sensitive pets, young children etc who may be disturbed by the fireworks.

Relevant authorities (such as ACT Policing, ACT Fire Bridge, ACT Emergency Services etc) do not know where fireworks may be let off and therefore are not able to fully target enforcement activities and may not know exactly what personnel to have on standby in particular suburbs (this view was raised by members of the public at community meetings and is not necessarily a view endorsed by Government or ACT emergency services authorities).

4.3 Objective of Government Intervention

To minimise the distress caused to members of the public and animals caused by the legal use of fireworks whilst at the same time allowing reasonable use of fireworks by those members of the community who enjoy them.

4.4 Mutual Recognition

Northern Territory does not have a notification system for fireworks; also see Section *F. Mutual Recognition* above.

4.5 The Options

Option 1 – maintain the status quo

Option 2 – education campaign to promote good neighbourly behaviour

Option 3 – introduce a notification system

4.6 Impact Analysis

OPTION 1 – MAINTAIN THE STATUS QUO

Under this option, members of the public may continue to use consumer fireworks without giving notice to relevant authorities, neighbours etc.

	ADVANTAGES	DISADVANTAGES
Business/ Industry		

	ADVANTAGES	DISADVANTAGES
Government	<ul style="list-style-type: none"> no new costs to the regulator 	
Community		<ul style="list-style-type: none"> people are unaware of where fireworks may be discharged
Environment		

OPTION 2 – EDUCATION CAMPAIGN TO PROMOTE GOOD NEIGHBOURLY BEHAVIOUR

Under this option, an education campaign to promote good neighbourly behaviour i.e. ‘be a good neighbour and let your neighbours know if you will be using fireworks over the long weekend’.

	ADVANTAGES	DISADVANTAGES
Business/ Industry		
Government		<ul style="list-style-type: none"> significant implementation costs
Community	<ul style="list-style-type: none"> if taken up voluntarily, may reduce problems associated with fireworks (i.e. noise, anti-social behaviour etc), if people are better informed and prepared 	<ul style="list-style-type: none"> regulating personal relationships
Environment		<ul style="list-style-type: none"> continued problems with noise associated with fireworks animals can hear and feel the impact from a far distance

OPTION 3 – INTRODUCE A NOTIFICATION SYSTEM

Under this option, members of the public would be required to inform their neighbours (within a prescribed proximity) and relevant authorities (e.g. fire brigade) of their intent to use fireworks. Details of the notification system might include:

- a prescribed form to provide to neighbours within a defined proximity (or all adjoining fences); and
- a prescribed form to provide to relevant authorities such as the Office of Regulatory Services, ACT Policing and/or ACT Emergency Services.

	ADVANTAGES	DISADVANTAGES

	ADVANTAGES	DISADVANTAGES
Business/ Industry		
Government	<ul style="list-style-type: none"> ▪ potential to better target enforcement activities ▪ potential to better target emergency services operations for the event of an accident, fire etc. 	<ul style="list-style-type: none"> ▪ implementation costs
Community	<ul style="list-style-type: none"> ▪ may reduce problems associated with fireworks (i.e. noise, anti-social behaviour etc), if people are better informed and prepared 	<ul style="list-style-type: none"> ▪ penalties for non-compliance
Environment		<ul style="list-style-type: none"> ▪ continued problems with noise associated with fireworks ▪ animals can hear and feel the impact from a far distance

4.7 Conclusions and Recommended Option

PREFERRED OPTION:	Option 1 – RETAIN THE STATUS QUO
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Option 1 is preferred. The cost of implementing a notification system outweigh any benefits. All members of the community should prepare for a level of impact and potential discomfort caused by fireworks over the Queen’s Birthday long weekend. Emergency services is aware of the heightened risks during the period (i.e. fire) and can manage rosters and resources accordingly. A notification system would be an unnecessary impost and burden on the community and Government alike.

4.8 Implementation

See discussion at Section *H. Implementation* above.

5. ADVERTISING THE SALE OF CONSUMER FIREWORKS

5.1 Background

Section 275 of the Regulation prohibits the advertisement of consumer fireworks except for the Queen's birthday supply period and the seven days prior to the sale period. The prohibition on advertising is made on the basis that consumer fireworks are not legal outside of these times. Permitting the advertisement of an illegal product would increase the risk of unlawful sales. In effect the permitted advertising period starts two weeks before the actual Queen's Birthday long weekend.

5.2 The Problem

In light of any changes to the Queen's Birthday supply period the permitted advertising period needs to be considered in order to provide sufficient time for industry to generate interest, without increasing the potential for unlawful sales.

5.3 Objective of Government Intervention

The objective is to appropriately manage the sale and use of consumer fireworks for the 2008 season so as to protect the public, property and the environment whilst not imposing unnecessary burden on persons selling consumer fireworks. The objective is also to reduce the negative impact associated with the illegal use of fireworks.

5.4 Mutual Recognition

See Section *F. Mutual Recognition* above.

5.5 The Options

Option 1 – continue to permit two weeks of advertising (despite the reduced sale period) – the status quo

Option 2 – permit advertising for the seven days before the supply period (i.e. 10 days of advertising).

Options 3 – reduce the advertising period to less than 10 days

5.6 Impact Analysis

OPTION 1 – CONTINUE TO PERMIT TWO WEEKS OF ADVERTISING (THE STATUS QUO)

Under this option, consumer fireworks can be advertised for the 11 day period before the Queen's Birthday long weekend as well as the three day sale period. It would allow a total of 14 days of advertising (which is the current situation).

ADVANTAGES	DISADVANTAGES
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	ADVANTAGES	DISADVANTAGES
Business/ Industry	<ul style="list-style-type: none"> ▪ no new requirements ▪ can use same advertisements from the 2007 season – potential for cost savings ▪ potential to generate interest and sales to offset the reduction in sale period 	<ul style="list-style-type: none"> ▪ increased potential for illegal supply of fireworks ahead of the Queen’s Birthday long weekend
Government	<ul style="list-style-type: none"> ▪ a longer advertising period would result in more advertising and hence increased awareness of the new rules surrounding the regulation of fireworks (i.e new discharge times etc) at no cost to government ▪ minimal implementation costs (met via planned industry briefings ahead of the 2008 season) 	
Community	<ul style="list-style-type: none"> ▪ generates interest and awareness of when and where to purchase consumer fireworks among those who enjoy fireworks 	
Environment		

OPTION 2 – PERMIT ADVERTISING FOR THE SEVEN DAYS BEFORE THE SUPPLY PERIOD

Under this option, consumer fireworks can be advertised for the seven day period before the Queen’s Birthday long weekend and the three day sale period. It would allow a total of ten days of advertising (which is the current situation).

	ADVANTAGES	DISADVANTAGES
Business/ Industry	<ul style="list-style-type: none"> ▪ allows some time to generate interest and sales (better in comparison to Option 3) 	<ul style="list-style-type: none"> ▪ may need to change advertisements and methods (i.e may no be able to recycle 2007 advertisements) ▪ may result in decreased awareness and therefore sales ▪ some potential for illegal supply of fireworks ahead of the Queen’s Birthday long weekend
Government	<ul style="list-style-type: none"> ▪ minimal implementation costs (met via planned industry briefings ahead of the 2008 season) 	
Community	<ul style="list-style-type: none"> ▪ generates a level of interest and awareness of when and where to purchase consumer fireworks among those who enjoy fireworks 	

	ADVANTAGES	DISADVANTAGES
Environment		

OPTION 3 – REDUCE THE ADVERTISING PERIOD TO LESS THAN TEN DAYS

Under this option, consumer fireworks can be advertised for a reduce period (anywhere between the sale period only and 10 days).

	ADVANTAGES	DISADVANTAGES
Business/ Industry		<ul style="list-style-type: none"> ▪ may need to change advertisements and methods (i.e may no be able to recycle 2007 advertisements) ▪ potential to result in decreased awareness and therefore sales
Government	<ul style="list-style-type: none"> ▪ minimal implementation costs (met via planned industry briefings ahead of the 2008 season) ▪ most likely of all options to minimise unlawful sales ahead of the long weekend 	
Community		<ul style="list-style-type: none"> ▪ potential to create difficulties for people who want to buy fireworks due to deceased awareness
Environment		

5.7 Conclusions and Recommended Option

PREFERRED OPTION:	OPTION 1 – CONTINUE TO PERMIT TWO WEEKS OF ADVERTISING (THE STATUS QUO) (FOR THE 2008 SEASON IN THE INTERIM)
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All options are sound. Option 1 is the preferred option. It is recommended that the status quo be preserved for the 2008 season. This decision could be reconsidered if the 2008 experience shows that the 14 days advertising period contributes to unlawful sales and unlawful discharge of consumer fireworks in the week(s) leading up to the Queen’s Birthday long weekend.

Option 1 enables industry to generate interest among those members of the community who want to purchase fireworks and may mitigate the financial impact of a reduced sale period. It also has the advantage of enabling those retailers who can, to recycle their advertising strategy from 2007 and therefore reduce costs. It is also likely that retailers will advertise the changes to the consumer fireworks regime (such as the new sale period, new discharge nights and times etc) and this has the added advantage for Government in that the new policies will be further disseminated at no cost to the Government.

5.8 Implementation

See discussion at Section *H. Implementation* above.

REGULATION OF CONSUMER FIREWORKS IN AUSTRALIAN JURISDICTIONS

A Jurisdictions which ban consumer use of fireworks

Western Australia: banned since 1967

Public access to fireworks and their use in Western Australia was banned in 1967 due to pressure from the medical fraternity and parents concerned about the number of injuries, particularly to children, that were occurring each year.

Explosives and Dangerous Goods (Explosives) Regulations 1963.

Queensland: banned since 1972

The Queensland government banned consumer fireworks in June 1972 because of the extensive number of injuries, the frequency of property damage, and the general disruption that was experienced on ‘cracker nights’. The use of fireworks is limited to public displays conducted by competent, licensed operators.

Explosives Act 1999; Explosives Regulation 2003.

Victoria: banned since 1985

Consumer fireworks were banned in 1985: “fireworks were banned for a purpose. They caused untold serious injuries, death and distress.” The use of fireworks is only legal under the control of a licensed pyrotechnician (e.g. for public displays etc). Dangerous Goods (Explosives) Regulation 2000.

New South Wales: banned since 1987

Fireworks cannot be used at a private function. It is illegal to obtain, possess or discharge fireworks unless a person holds a Pyrotechnician’s Licence or Fireworks (Single Use) Licence from WorkCover NSW. Licences will only authorise a display for a “legitimate reason” such as organised public displays, theatrical displays and technical, non-display purposes such as for industrial and agricultural purposes. *Explosives Act 2003*; Explosives Regulation 2005.

South Australia: banned since 2001

Fireworks displays can be conducted only by licensed pyrotechnicians who have been trained in the safe use of fireworks. Displays must be conducted between 4.00pm and 10.00pm on any day other than New Years Eve when a 12.30am (New Years Day) finish is permitted. Workplace Services must be notified of all fireworks displays at least 5 weekdays (excluding public holidays) before the display.

Explosives Act 1936; Explosives (Fireworks) Regulations 2001.

B Jurisdictions which allow the retail sale, and consumer purchase and use of fireworks.

Tasmania: available under certain limited circumstances <<note that the Tasmanian regime is currently under review>>.

Type 2 (shop goods or small retail fireworks) allowed with a permit – displays restricted via the requirement for a display to occur at least 50 metres from a building, vehicle or

roadway. The permit process requires the consent of police, the fire service and the local authority.

Type 3 (large retail fireworks such as rockets) permitted by licensed shot firers only.

Dangerous Goods (General) Regulations 1998.

Permit regime currently under review.

Northern Territory: available for Territory Day (1 July).

Shop goods/consumer fireworks are available to the public for Territory Day on 1 July each year. Fireworks can be sold by licensed persons to persons over 16 years of age. Fireworks are available for sale on 30 June and 1 July between 9am and 9pm. Fireworks may only be ignited on 1 July between 6.00pm and 11.00pm.

Dangerous Goods Regulations.

Australian Capital Territory: available for the Queen's Birthday Public Holiday weekend (the three days that are the Saturday and Sunday before the Monday that is the second Monday in June and the Monday) only.

The availability of consumer fireworks is limited to the week leading up to and including the Queens Birthday Public Holiday weekend in June.

It is illegal to possess or discharge consumer fireworks in the ACT outside of this period.

The sale of fireworks to consumers is limited to ACT residents over the age of 18 who can provide evidence of residence and photographic ID.

The use of the fireworks is permitted only between the hours of 5:00pm and 10:00pm on the Saturday, Sunday and Monday of the Queen's Birthday Public Holiday weekend.

This regime has been in place since 2004 under the *Dangerous Substances Act 2004* (the Dangerous Substances (Explosives) Regulation 2004).

Regulatory Statistics Relating to Consumer Fireworks (ACT WorkCover)

	Previous Regime		Dangerous Substances Act Regime			
	2002	2003	2004	2005	2006	2007
Licences to sell fireworks	N/a	N/a	16	22	31	35
Premises licenses to sell fireworks	3	7	23	43	47	53
Types of fireworks approved for sale	N/a	N/a	158	159	221	319
Number of firework sales ¹	1053	1486	7,732	12,512	14,557	20,334
Fireworks related complaints ²	216	220	145	205	245	430
Fireworks related inquiries ³			110	-	-	
Known fireworks related injuries ⁴	1	8	-	5	-	1
Fireworks related property damage ⁵	-	-	13	9	10	-
Fireworks related fires attended by the ACT Fire Brigade	-	1	1	0	-	14
Number of dog related incidents ⁶						
▪ killed	2	0	1	4	1	4
▪ injured	6	0	1	4	0	9
▪ lost/found	185	376	123	122	54 ⁷	128
▪ impounded	49	44	19	34	19	39

¹ This figure is based on: for 2002 and 2003: the number of purchaser permits issued (i.e. the number of individuals who were issued a licence to purchase fireworks, these individuals may have made multiple purchases). For 2004 to 2007: the number of consumer receipts issued (i.e. the number of purchase transactions, one person may have made multiple purchases, one transaction may be for one or multiple bags of fireworks).

² This figure is based on the number of inquiries received by ACT WorkCover/ ACT Policing during Queen's Birthday period.

³ This figure is based on the number of complaints received by ACT WorkCover/ ACT Policing during Queen's Birthday period.

⁴ Data provided by ACT public hospitals – note that hospitals are not required to record the number of fireworks injuries.

⁵ This figure is based on complaints received by ACT WorkCover (mostly relates to letterbox damage).

⁶ Data provided by the Domestic Animal Services in relation to the Queen's Birthday long-weekend.

⁷ This figure only includes lost dogs.