Standards Australia – Submission

Annual Review of Regulatory Burdens on Business Manufacturing and Distributive Trades

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1. Introduction

Standards Australia is pleased to provide a submission to the Annual Review of Regulatory Burdens on Business: *Manufacturing and Distributive Trades*, particularly because the sector is one where Australian Standards and guidance material are widely used. This submission addresses the Commission's terms of reference to 'identify regulatory and non-regulatory options, or provide recommendations where appropriate to alleviate the regulatory burden in those priority areas, including for small business'.

Commitments by governments to 'cut the red tape' imposed on Australian businesses have done little to slow the process of regulation overload in the past ten years. Standards Australia believes that standards-based solutions, whether as self-regulation, quasi-regulation or co-regulation, can offer realistic alternatives to burdensome black-letter regulation, not just in any 'short list of priority areas' that the Commission may develop in the course of this review, but more broadly as well.

Australian jurisdictions, when pursuing the policy of harmonising regulation between jurisdictions, should look to national standards as part of the solution. Standards can be a direct substitute for or can complement regulation. They can be a useful tool in reducing the regulatory burden by harmonising procedures, products and services between jurisdictions.

Standards Australia offers a range of models including:

- accredited Standards Development Organisations;

- voluntary Standards, codes and guidelines;

- Standards for reference in legislation;

- Standards and guidance materials for small business; and

- solutions to cross-border and international issues.

1.1 Standards Australia – Our responsibility

Standards Australia is very aware that, for Standards to be seen as a realistic instrument for dealing with policy issues, then the standards development process must be at least as streamlined and efficient as the regulatory process. Standards Australia is working towards this objective. Standards Australia recognises that best practice endeavours should apply to the development of Australian Standards just as much as to the development of regulation.

Standards Australia is currently undergoing a transformation program in order to ensure that the organisation is in a position to deliver the best possible outcome to its stakeholders. This process is briefly described in this submission.

As part of our commitment to better communication we are currently involved in an active discussion with State and Federal regulatory bodies on ways Standards Australia can assist in improving regulatory efficiency. We will continue to champion such ideas in partnership with our stakeholders and where possible providing an effective alternative to 'black letter' regulation and different ways of addressing current and future challenges.

The great benefit of the broader standards process and its various outcomes – not always the development of a Standard, but sometimes a handbook or other guidance material – is that it gathers all the stakeholders – virtually or otherwise – 'in one room'

and a consensus-driven outcome is the result. The degree of consultation this involves is almost always greater than that attending regulation making by governments.

2. Risk-based approach to regulation

2.1 The options available to governments

'Wouldn't it be more sensible to apply the best [regulatory] solution from day one, rather than overregulate first and deregulate later?' (Standards Australia, *Australian Financial Review*, 6 December 2007)

Governments have a spectrum of options when confronting a policy issue. These options range from no action at all, through to explicit, detailed regulation (legislation and/or regulations), often referred to as 'black-letter law'.

What Standards Australia is proposing is that governments should be less inclined to bring in black-letter law and then, once the impacts of over-regulation on business and the public become clear, have to find ways of making these impacts less burdensome. Instead, we are asking that Ministers and public servants, when considering a policy problem, consciously and conscientiously assess risks (to the community and the economy) and apply a solution at the point on the spectrum that best matches the risk.

The solution might be 'no action', or a non-regulatory solution (like a publicity campaign), or self-regulation (by means of a code or standard), or quasi-regulation (such as a standard endorsed by government) or co-regulation (such as a standard cross-referenced in a general or high-level regulation). There might even be opportunities to replace existing black-letter law with other forms of regulation.

We are still seeing the consequences of the rush to regulate – the Banks review, 'hot spot' reviews, and other reviews, all looking at ways of reducing the regulatory burden after it has been imposed.

2.2 Risk-based approaches: The record so far

The regulatory option chosen should strike the right balance between, on the one hand, protecting the community and serving other policy objectives and, on the other, minimising the burden of regulation. *'Risk-based regulation'* should be the aim.

Whether self-regulation, quasi-regulation, co-regulation or detailed, black-letter regulation is the best solution should be determined case-by-case. The criterion should be the risk to the community attaching to the behaviour that is being regulated.

We have seen risk-based approaches set out in, for example, the *Victorian Guide to Regulation*, the handbook from the Australian Government's Office of Best Practice Regulation (OBPR) and in recent work in the United Kingdom.[1] Governments have many times in the past set up quasi- and co-regulatory schemes incorporating the work of industry bodies and standards makers, including Standards Australia. Governments have also been prepared to leave some fields to self-regulation.

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[1] Government of Victoria, *Victorian Guide to Regulation*, Department of Treasury and Finance, Melbourne, second edition, 2007; Australian Government, *Best practice regulation handbook*, Canberra, 2007; UK Better Regulation Commission and Risk and Regulation Advisory Council: http://archive.cabinetoffice.gov.uk/brc/ and http://www.berr.gov.uk/about/economics-statistics/rrac/index.html .

Presumably, in all of these cases governments have made judgements about risk and many of these judgements have led to highly successful outcomes. The problem that Standards Australia has found is that there is in jurisdictions often a limited awareness of these existing cases, let alone of whether they could provide models for new regulatory schemes that would impose less of a burden than what flows from black-letter regulation.

It is hoped that the current review by the Commission will be one means of raising awareness of successful standards-based models. Standards Australia has provided the Commission with many examples of co-regulation, where Australian Standards have been called up in regulation. Others will be provided.

In a previous report, the Commission has supported the co-regulation model of the Building Code of Australia, while noting that further work needs to be done in reforming regulation of the building industry.[2] The Code is produced and maintained by the Australian Building Codes Board on behalf of the Australian Government and State and Territory Governments. The Code has been given the status of building regulations by all States and Territories.

There is another model in the 'Wiring Rules' (Australian/New Zealand Standard 3000: Electrical Installations), where a total of just ten pages of general regulation in eight States and Territories references a detailed standard (460 pages) providing for the safety and efficiency of this industry. The regime applies nationally and facilitates a national electrical contracting industry. It overcomes many of the harmonisation difficulties alluded to in the 'lessons learned' section of the Commission's review of regulatory burdens on the primary sector.[3] Again, material on this example will be provided to the Commission.

The task of writing the Wiring Rules over many years and updating them has been considerable, but it is taken on by industry, consumer and regulator representatives as a necessary task to ensure safety and efficiency in this industry while minimising the costs to business. It is not a call on government. Most importantly, the fact that the Wiring Rules have been produced by stakeholder consensus greatly reduces the likelihood of complaints about the burden of regulation.

Standards Australia has offered to work with COAG jurisdictions to improve the awareness of lawmakers about standards-based alternatives to regulation. The Commission in this review also has the opportunity to advance this awareness.

2.3   Advantages of risk-based regulation, particularly for governments

A risk-based approach allows governments to reap the benefits of self-, quasi- and co-regulatory approaches, applied as appropriate in particular cases. These benefits have been summarised by the Office of Best Practice Regulation (OBPR):

> Overall, there can be a number of potential *benefits* associated with self-regulation, quasi-regulation and co-regulation compared with explicit government regulation.
>
> These include:
>
> - lower government administration costs, because such arrangements are developed and often administered by business;
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> - lower compliance costs for business;

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[2] Productivity Commission, *Reform of Building Regulation*, Research Report, Productivity Commission, Canberra, 2004.
[3] Productivity Commission, *Annual Review of Regulatory Burdens on Business: Primary Sector*, Research Report, Canberra, 2007, Appendix C.

- innovative inducements for compliance and sanctions for non-compliance;

- rules that are tailored to specific needs and thus better targeted;

- improved credibility because rules are developed by business, not imposed by governments;

- enhanced flexibility, responsiveness and speed of implementation and modification; and

- greater responsiveness to consumer demands based on additional information gained from, for example, the complaints mechanism.[4]

Clearly, the extent to which these benefits accrue will depend on whereabouts on the spectrum the balance is struck between self-regulation and black-letter regulation. This is the case with benefits to government as well as with benefits to industry and the community. Co-regulation, for example, requires more input from government than does a piece of self-regulation standing alone.

But even co-regulation, in the form, for example, of general regulation calling up detailed standards, should mean a considerably smaller drain on government resources (inter-departmental consultation, drafting time, legislation program slots and so on) than that due to a black-letter act and detailed regulations. The Wiring Rules, referred to above, is a good example of this: the great bulk of the drafting and administrative task falls to those who work on the 460 pages of standard, not those who produce the ten pages of regulation.

Governments can also benefit from the way standards are made. Consensus-based standards or codes have the key advantage that they are derived directly from the sectors affected rather than being imposed by government, sometimes with only perfunctory consultation. This should considerably improve the chances of the outcome being accepted by business and the community with, consequently, fewer political consequences for government.

The degree of consultation indicates, of course, the key advantage accruing to industry from standards-based regulatory options. Industry representatives have been intimately involved in developing the standard, along with community and regulator representatives. They accept the outcome as appropriate to the needs of their industry. They have also benefited from the exchange of ideas involved in developing the standard and they take these ideas back to their business.

Finally, as distinct from the sort of consultation that occurs with consensus-based standards, it is worth noting the remarks of the chairman of the Productivity Commission about consultation *by government*:

A key deficiency that needs to be addressed is consultation. Regulation without consultation is like a shot in the dark. Yet a recent government survey found that only one-quarter of regulatory agencies consult outside government when developing regulations. As business has demonstrated, the consultation that has occurred has been sporadic and half-hearted in many cases, and often too late or leaving too little time for business to respond. This smacks of "government knows best" and has been a major cause of some of the most costly regulatory decisions.' [5]

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[4] Australian Government, *Best practice regulation handbook*, pp. 102-103.
[5] Gary Banks, *Reducing the regulatory burden: The way forward: Monash Centre for Regulatory Studies, Melbourne, 17 May 2006*, p. 12, http://www.pc.gov.au/speeches/cs20060517 , accessed 24 January 2008.

3. How OBPR could help

3.1   Problem

If standards-based options are to help in reducing the regulatory burden in the manufacturing and distributive sector, OBPR, the Commonwealth Office of Best Practice Regulation, has a role to play. It can be more than just the 'RIS policeman', presiding over the production of more and better Regulation Impact Statements.

Under current arrangements and OBPR's current role, it is difficult to see how any Australian Government department or agency would have sufficient knowledge about standards and their impact to analyse them in the required detail as a regulatory option, whether as self-regulation, quasi-regulation, or co-regulation. Unless the department or agency has direct experience of an existing standard in its area of responsibility, or perhaps has individual officers on Standards Australia technical committees, it is extremely unlikely that using standards-based options will enter the collective mind of the organisation.

Despite documents like OBPR's *Best Practice Handbook*, COAG's *Best Practice Regulation: A Guide for Ministerial Councils and National Standard Setting Bodies*, the *Victorian Guide to Regulation*, and similar material in the other States and Territories, there remains a deficiency in the information available to Commonwealth departments and agencies about standards-based alternatives.

For example, the OBPR handbook:

- contains only rudimentary information on standards;

- has no indication of the many industry sectors where standards apply at present;

- has no links to the Standards Australia or SAI Global (publisher of standards) websites;

- contains a description of self-regulation which is almost entirely about industry codes rather than standards; and

- has no cross-references to the material in the Productivity Commission standards report on best practice for standards construction or to other sources that would help departments or agencies decide whether standards have potential as an option for addressing a policy issue.

3.2   Solutions

OBPR itself is aware of the deficiencies in its approach to standards-based options. Standards Australia proposes that OBPR's Charter include two additional functions:

- advise departments and agencies on alternative instruments of regulation, including information and education campaigns, labelling requirements, economic incentives, marketable rights, industry codes of conduct and voluntary standards (including their use in quasi- and co-regulation);

- provide or arrange for training for departments or agencies on alternative regulatory instruments.

Standards Australia has offered to work collaboratively with OBPR to ensure that departments and agencies are fully aware of the potential of standards as an alternative instrument of regulation. Standards Australia is ready and willing to discuss how this can be done. Support at ministerial level would facilitate this.

Some possible options are:

- amendments to the OBPR handbook to set out the standards alternative more comprehensively and accurately, including case studies;

- a companion document to the handbook, describing alternative instruments more fully, again with case studies, to be developed by OBPR and Standards Australia together;

- a workshop, sponsored by OBPR and run by Standards Australia, to raise awareness within departments and agencies on standards-based options;

- cooperation between Standards Australia and the Best Practice Regulation Coordinators in departments and agencies; and

- a program of staff exchanges between OBPR and departments and agencies and Standards Australia.

4. How Standards Australia is meeting the challenge

4.1   The Transformation Process

Standards Australia is currently engaged in a significant business transformation program to better enable it to fulfil its strategic objective, of contributing to the national interest and public benefit, on a long term and sustainable basis.

The transformation program will implement a new business model for Standards Australia, that addresses many of the operational and policy issues identified in the 2006 Productivity Commission report and by other internal management reviews and stakeholder consultation forums conducted by Standards Australia. These issues include a lack of rigour in the way issues are identified and projects are selected, inflexible or inefficient development processes, too much work for the resources available and an unsustainable business model based on aging 'voluntary' contributors.

A summary of these changes are:

Increased strategic engagement with industry, government and the community.
Standards Australia has developed processes for strategic, economy wide engagement with industry, government and community groups. Improved strategic engagement will allow stakeholders to work with Standards Australia to better prioritise our work and deliver programs of real value to Australia.

Net Benefit Assessment and prioritisation and resource allocation resulting in more efficient, more realistic content delivery.
Standards Australia will develop a net benefit assessment tool to assist industry, government and the community determine Net Benefit. Any proposal to create a standard must demonstrate net benefit to Australia. Projects that meet the net benefit criteria will be assessed by Standards Australia to determine resource requirements and prioritisation for development.

Pathways.
The new business model gives stakeholders options for how they use Standards Australia's services and gives them guidance on how they can establish their own capacity to develop Australian Standards, or contribute to the development of Australian Standards.

<u>Standards development process transformation.</u>
Standards Australia is investing significant resources in improved technology, new development processes and staff capability so that Standards Australia can deliver significantly better outcomes for stakeholders. In particular these operational measures will ensure that stakeholder engagement in the development process will be more valued and efficient and that timeframes for publication will be much quicker.

By assessing net benefit, identifying priority projects, offering alternative pathways and dramatically improving development processes, Standards Australia can manage stakeholder contributions and expectations more effectively and deliver improved outcomes.

4.2   Cost of Standards

Standards Australia is aware of concerns relating to the cost of purchasing Australian Standards and the need to regularly purchase updates. Standards Australia supports Recommendation 7.3 of the Productivity Commission Research Report on *Standard Setting and Laboratory Accreditation*, 2 November 2006, which states:

> Mindful of the fundamental principle of transparency and accessibility of legal requirements, the Australian Government and other governments (through their agencies) should fund free or low-cost access to Australian Standards made mandatory by way of regulation.

The background to this recommendation and an in-depth discussion into the matter of access to and cost of standards is addressed in the Productivity Commission Research Report, pages 120 to 130.

Standards Australia's full response to the recommendation is as follows:

> This recommendation is supported.
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> Decision on this matter by Australian governments is of paramount importance for interface between Government and Standards Australia henceforth. Standards Australia welcomes advice on the position of all eight State and Territory governments in this regard. For its part, Standards Australia has developed a number of alternative resourcing options to meet a wide range of situations. Whilst we look forward to meeting needs of Governments and regulators with greater respective clarity of roles, requirements and resource contributions, there are some fundamental matters that need to be taken into account as we work together to design further solutions, including:
>
> - international obligations to ISO and IEC that prohibit unilateral free to air distribution of international consensus standards [and it is noted that distribution on this basis still has the potential to undermine the current revenue base of most national standards bodies around the world, as well as ISO and the IEC]; and
>
> - the binding obligations under our long term Publishing Licence Agreement with SAI Global, around which distribution solutions are crafted for standards developed within Standards Australia.
>
> For some selected standards developed in Australia, bulk arrangements have been negotiated with SAI Global for them to be available free of charge in electronic form to Australian customers for a negotiated annual fee paid to SAI Global by relevant government interests.

5. Accreditation of other standards development organisations

Ensuring that standards are developed more efficiently does not turn just on improvements within Standards Australia. Although Standards Australia is the leading developer of voluntary standards in Australia, there are no formal or legal barriers to competition in the development of Australian Standards in Australia.

5.1 The Accreditation Board for Standards Development Organisations (ABSDO)

ABSDO is an independent Board whose task is to encourage development of Australian Standards by a range of competent standards development bodies. ABSDO provides the mechanism to ensure other SDOs in Australia are able to develop their own industry standards and have these standards recognised as Australian Standards. For example, under ABSDO accreditation:

- Australian Forestry Standard Limited produces Australian forestry management and timber 'chain of custody' Australian Standards;

- the Communications Alliance produces Australian Standards for the telecommunications communications industry, especially covering equipment standards;

- the Rail Industry Safety and Standards Board produces Australian Standards for rolling stock and railway infrastructure; and

- Seafood Services Australia produces the Australian Fish Names Standard.

Standards Australia is the default Australian Standards developer and covers fields including consumer products and services, construction, engineering, business, information technology, human services, energy, water utilities and much more.

ABSDO was established by the Membership Council of Standards Australia to encourage Standards Development Organisations (SDOs) to produce internationally aligned Australian Standards to serve Australia's national interest and deliver public benefit. ABSDO has up to ten Board Members, representing the Standards Australia Council's membership categories of:

- Government and Regulators (up to three members);

- Manufacturers and Suppliers (up to three);

- Consumers and Professionals (up to three); and

- one representative of the Board of Standards Australia (who cannot Chair ABSDO).

ABSDO carries on the role of the former Standards Accreditation Board, which operated from 1996 until 2007. The Standards Accreditation Board was established in response to a Government inquiry (the Kean inquiry) which recommended that Standards Australia establish an independent process to accredit other standards writers to develop Australian Standards. The role of ABSDO was endorsed by the Productivity Commission in its 2006 review *Standards Setting and Laboratory Accreditation*.

5.2   What does an organisation need to do to be accredited?

ABSDO has stipulated the requirements for a Standards Development Organisation (SDO) to be accredited (*Requirements for Accreditation of Standards Development Organisations* (September 2007)):

- An SDO must have appropriate recognition and standing within its industry and adequate resources to undertake the Standards development task.

- Standards Development Processes and Administrative Procedures must be rigorous and transparent and the organisation must operate internal complaints procedures to resolve any issues and concerns arising from its standards development activities.

- ABSDO offers a final process appeal for stakeholders or organisations that are dissatisfied with how an Australian Standard has been developed by any accredited SDO.

- SDOs need to apply to ABSDO for accreditation for their selected subject area and are audited by ABSDO to verify adequacy against the Requirements. They are periodically reassessed to ensure on-going compliance.

- The accredited SDOs pay an annual accreditation fee based on their scale of operation. They also cover the cost of the audit process.

Under the ABSDO process, the accredited SDO retains full control and intellectual property rights over the Australian Standards that they develop and can distribute these in whatever manner they consider most effective and appropriate.

ABSDO has also established criteria for the preparation or amendment of an Australian Standard, in its *Criteria for Designation as an Australian Standard* (September 2007). These *Criteria* are designed to ensure that all Australian Standards continue to meet rigorous and transparent processes and are developed in line with Australia's national interest and public benefit.

Consideration for accreditation against these *Requirements* is also available for government agencies to enable them to develop Australian Standards.

6. Standards can reduce regulatory duplication and increase harmonisation

Manufacturing covers a countless range of inputs, processes and products. It includes production of thousands of different types of goods. Standardisation plays an important role in the manufacturing industry in areas such quality assurance, safety and facilitating trade.

A simple example: without the standardisation dimensions of freight containers, international trade would be slower and more expensive. Standardised symbols provide danger warnings and information across linguistic frontiers. The consensus of grades of various materials gives a common reference for suppliers, producers and consumers.

Below are some examples of how Standards Australia has provided a solution to an industry in an adaptable, innovative and practical way.

6.1   The Product Safety Framework (PSF)

The Product Safety Framework (PSF) is a revolutionary idea, developed by Standards Australia. It is an example of the different options and processes that Standards Australia is currently engaging in. Standards Australia in collaboration with the Infant Nursery Products Association of Australia, the ACCC and other key stakeholders, are currently trialling the PSF in relation to infant nursery products.

The PSF was developed after calls from the industry to improve product safety standards because:

- existing standards only cover a small proportion of product classes (approximately 30 out of 200);

- it takes a long time to produce a product standard;

- new products are coming on to the market at an increasingly rapid rate and through multiple channels; and

- recommendations from the 2006 Productivity Commission's report on the Australian Consumer Product Safety System that all relevant standards be hazard focused.

Standards Australia took the view that a different approach was needed. The traditional approach (vertical standards), although easy to apply and effective, was slow and addressed only a small number of products.

The PSF is a horizontal risk assessment with modular hazard controls that are applicable to multiple products. The benefits of this framework include the potential to apply it to all products, that it is modular, fast and easily updated.

To test the potential of the PSF, Standards Australia entered into a 12 month pilot commencing in April 2007 to trial infant nursery products. The pilot participants range from small to large distributors, manufacturers and retailers and include:

Target	Coles Myer
Funtastic	IGC Dorel
Bubzilla	Babyco
TGA Baby	C Stuart
Nice Pak	Mali Furniture
Sunbury Nursery Furniture	Vision Australia.

6.2   The Product Safety Management System (PSMS)

The PSMS is another innovative tool currently being developed by Standards Australia, Stancert and the Australian International Design Awards. It addresses safety concerns at every point in products development, sale and use.

The PSMS will be developed as a Guide and will outline the principles and framework to help organisations assess and manage the possible dangers or risks that can be built into a product at any point in the supply chain, from design to distribution.

The Guide, which would be incorporated into existing management systems, would:

- help suppliers assess and manage consumer product risks throughout the product lifecycle – from design, manufacture, distribution to the end-user and disposal;

- help manufacturers identify the hazards, assess and manage these risks and provide consumers with the information they need to use and dispose of products safely;

- allow problems to be corrected at any point in the design, production or distribution chain; and

- place greater emphasis on safety during design and manufacture, reducing the possibility of injuries, legal cases, customer dissatisfaction and regulatory issues.

The Guide would cover issues including:

- the suitability of the design of the product for both the intended user and the intended environment;

- research and development processes;

- product information for consumers;

- quality assurance;

- testing of prototypes throughout a product's development and final production parts;

- consumer feedback systems;

- product recall system;

- product traceability to limit the impact of and facilitate recalls;

- integrated systems; and

- control within the supply chain.

Manufacturers, retailers and importers all have a clear interest in ensuring the safety of the products they endorse. They are all concerned with protecting the reputation of their products and services in the marketplace.

By these three sectors incorporating this new Guide into their safety management systems, consumers will have greater confidence in the products they buy and use everyday.

6.3   The Building Code of Australia

As mentioned earlier in this submission, an example of how Australian Standards can be used as a pathway to national regulatory harmonisation are the widely accepted and referenced Australian Standards for building design and construction.

Approximately one hundred building design and construction Standards are primary reference documents in the Building Code of Australia [BCA]. These standards provide 'deemed to satisfy' solutions for regulatory compliance.

The BCA is given legal effect by legislation in each State and Territory, subject to some variations in provisions of the legislation. The goal of the BCA is to enable the minimum necessary standards of relevant, health, safety (including structural safety and safety from fire), amenity and sustainability objectives to be met efficiently.

Standards Australia provides national, practical and consensus driven 'deemed to satisfy' solutions that support the performance requirements in the BCA. This upholds the BCA's national consistency approach.

Some examples of Standards referenced in the BCA include:

Structures

- Loading actions by wind, snow and earthquakes.

- Concrete, masonry and timber design Standards and associated product Standards.

Domestic Housing

- Product Standards and test methods related to windows, doors and roofing.

- Internal and external waterproofing of dwellings.

Fire Services

- Fixed and mobile fire extinguishing systems.

- Installation and product standards for smoke detectors and other alarm systems.

- Gaseous medium fire extinguishing system replacements for Halon gas.

Gas, Plant and Plumbing

- Product and installation Standards for gas and hydraulic systems.

- Design Standards for mechanical building services including elevators, air conditioning, and ventilation systems.

Specifications

- Management of public works technical specifications.

Special Requirements

- Design Standards related to access for people with disabilities.

- Termite risk management.

- Energy Efficiency.

7. Standard Development, Committees and Consensus

To have credibility and broad community acceptance, a Standard must represent the consensus of a balanced committee of experts from representative interest groups. Consensus does not necessarily mean unanimity, but it does imply more than a simple majority. Standards Australia looks to eighty per cent agreement within a committee with no major interest dissenting, before a Standard can be published.

This combination of balanced representation and high consensus requirements ensures that no specific interest group can dominate. The process must also be transparent, meaning that there is a well-established procedure, which is equitable to all parties, and that each step of the standardising process is open and available for scrutiny.

Standards Australia is the neutral party in this process and does not play an active part in the decisions of committees. Standards rest with the committee members who are under an obligation to develop a Standard which best matches the needs and values of our society.

The content of an Australian Standard is the responsibility of a technical committee. The basis for the composition (or 'constitution') of a technical committee is to ensure balanced participation by those interests that will be significantly affected by the resulting Standard. Individual members of a technical committee are selected by nominating organisations that may include, but are not restricted to, government bodies, industry associations, community-based and consumer organisations, employee organisations and professional, technical or trade associations. In recognition of the national status of Standards, national rather than regional or local organisations are preferred when seeking nominating organisations to cover the range of interests affected by the Standard.

Australian Standards are living documents that reflect progress in science, technology and systems. To maintain their currency, all Standards are being periodically reviewed.

There are two key processes that provide Australian Standards with their authority and widespread acceptance, *transparency* and *consensus*.

- Consensus: taken to mean general agreement, characterised by the absence of sustained opposition to substantial issues by any important part of the concerned interests, arrived at by a process that takes into account the views of all parties concerned while reconciling any conflicting arguments.

- Transparency: means that notification and all information on current work programs and proposals is available to all interested parties. Transparency also includes the concepts of openness, participation on a non-discriminatory basis, and impartiality.

It is only by maintaining the openness and integrity of standards that they will continue to be of benefit to society.

8. Adopting International Standards

The policy of Standards Australia is to base Australian Standards on International Standards to the maximum extent feasible and to use the World Trade Organization (WTO) Agreement on Technical Barriers to Trade (commonly referred to as the TBT Agreement) as a benchmark.

In addition, Standards Australia is committed to complying with Annex 3 of the WTO TBT Agreement, the Code of Good Practice for the Preparation, Adoption and Application of Standards, which is applicable to non-government standardizing bodies such as Standards Australia.

Standards Australia has a policy of adopting International Standards wherever possible. This policy is in line with Australia's obligations under the World Trade Organization's Code of Practice, which requires the elimination of technical Standards as barriers to international trade. As a result approximately 33 per cent of

current Australian Standards are fully or substantially aligned with International Standards.

The principal benefit to Australia of basing Australian Standards on the equivalent International Standards is the benefit to the Australian economy by facilitating the international exchange of goods and services. Other benefits include the following:

- International (IEC and ISO) Standards generally reflect the best experience of industry and regulators worldwide and cover conditions in a variety of countries.

- Australia's obligations under the WTO TBT Agreement are supported.

- Participation in international certification schemes is facilitated.

9. Conclusion

Terms of reference for reviews of the 'regulatory burden' consistently require the reviewers to look at regulatory alternatives as well as addressing current causes of concern. This was the case with the Bell review in 1996 and the Banks review ten years later. It is the case with the latest COAG working group (and the previous ones that stalled) and it is the case with the current Commission reviews of regulatory burdens.

The causes for concern are described variously as 'hotspots', 'priority areas', 'bottlenecks' or 'a sea of paperwork and red tape'. They are identified and described with great precision and copious evidence. Recommendations as to what should be done about the problems identified, however, are often couched in somewhat less precise terms. Sometimes they simply call for another review. In a few years, there are complaints that governments have failed to act on many recommendations or have done too little. Meanwhile, the red tape tangle remains and grows.

Standards Australia recognises that political pressures for governments to do something about red tape are inevitable and strong. These pressures flow through to reviewers. Yet the pressures – and the best efforts of reviewers – do not seem to have been enough to cut through the tangle.

It is time for review bodies and governments to look seriously at the perennial 'other side' of the terms of references of reviews – the alternatives to black-letter regulation. Standards Australia believes that standards-based alternatives, whether in self-regulation, quasi-regulation and co-regulation, have a lot to offer.

Standards Australia is keen to work with the Productivity Commission and with the Office of Best Practice Regulation to ensure that government regulators are appropriately informed on the standards alternative to regulation. Standards Australia will provide further examples of incorporation of standards in regulation, to be considered as a model and would be happy to provide forums or workshops to ensure understanding of the potential benefits of this model.

Standards Australia would also be happy to meet with the Productivity Commission to provide further detail on its Transformation program currently underway to improve standards development processes.