



RESPONSE BY THE AUSTRALIAN INDUSTRY GROUP

ANNUAL REVIEW OF REGULATORY BURDENS ON BUSINESS
MANUFACTURING AND DISTRIBUTIVE TRADES
PRODUCTIVITY COMMISSION DRAFT RESEARCH REPORT

JULY 2008

Introduction

The Australian Industry Group welcomes this review by the productivity Commission into the burden of regulation on the manufacturing sector.

Ai Group is Australia's leading industry organisation representing 10,000 employers in manufacturing, construction, automotive, telecommunications, IT & call centres, transport, labour hire and other industries. The recent merger with AEEMA has included all major manufacturers and suppliers in the ICT, electrical and electronic sectors. Our membership includes businesses that stand to be affected by the plethora of regulatory measures reviewed by the Commission, and in particular those related to energy efficiency and climate change that are emerging at different levels of Government.

Ai Group is keenly aware of the role that regulatory costs have on businesses. These costs involve expenditures of time and money. Particularly in medium and small businesses, entrepreneurial and managerial effort is diverted away from commercial activities in order to meet regulatory requirements. Ai Group understands however, that when regulation is appropriate and is designed to minimise costs on business, this diversion of effort itself is appropriate and can be in line with improving broader social welfare.

We support the recent efforts at both the Commonwealth level and on the part of some of the States and Territories to improve regulatory processes. These efforts have advocated a closer attention to and wider use of Regulatory Impact Statements and greater genuine consultation with business over proposed regulatory measures. There is, however, considerable improvement that can and should be made in ensuring that regulation is appropriate and that it is designed to minimise compliance costs, particularly in the area of mandatory energy efficiency regulation, an integral part of the government's current approach to tackling climate change and reducing greenhouse gases.

Energy Efficiency Regulation

Ai Group supports the need for Australia to take action to assist in the global effort to address climate change. In undertaking this important task we believe Australia should strive to increase efficiencies and abate greenhouse gases at the lowest possible cost. This includes compliance costs. We therefore support a market-based regulatory approach and in particular support a broad-based Carbon Pollution Reduction Scheme (CPRS).

A key feature of any market-based approach is that micro-decision making is kept away from political and bureaucratic processes and transferred to the market. This allows governments and bureaucracies to concentrate on the key tasks of defining property rights and responsibilities (including in relation to the pricing of external costs); ensuring uncertainty and information asymmetries are addressed appropriately; and maintaining the integrity of the CPRS and associated reporting and monitoring arrangements. It also allows decisions about particular products, processes and technologies to be left to market participants – both producers and consumers – who are better able to make trade-offs based on costs, prices and their own preferences than are governments.

If, as should occur, external costs related to greenhouse gas emissions are factored into energy prices, Ai Group would see little case for mandatory energy efficiency

measures whether related to products or to processes. The Commission notes a similar view at page 135 of the Draft. "...with an effective emissions trading scheme, much of the current patchwork of climate change policies and programs will become redundant. Retaining existing, or introducing new, policies and programs would need to offer benefits." And at page 129 the Draft is more explicit. "The policies and programs should also satisfy an additional hurdle – namely whether their underlying objective is already met by an emissions trading scheme. For a number of policies and programs – such as ...MEPS – *there are serious doubts this hurdle would be met.*" (italics added)

Business is currently facing a range of mandatory energy efficiency measures originating at both the Commonwealth and State/Territory levels. At the very least any such measures should have clear sunset clauses aligned to the full operation of the CPRS.

On Response 6.1

Current delays in registration of WELS products are not sustainable. Time limits for such registrations should be introduced. While there is conjecture on an appropriate timeframe we suggest that many of the delays related to incomplete applications and the resource drain on WELS administrative resources could be minimised by the development of a more sophisticated on-line registration system (perhaps similar to that used for MEPS and Energy Labelling programs) that places the responsibility on the applicant to input data and does not allow an application to proceed unless all essential information is provided. We also understand that the necessary financial transactions associated with product registration also lead to delays and suggest that alternative models for payment by applicants be developed so that application for registration can be done in one seamless series of steps at one sitting.

On Response 6.2

Independent review of the effectiveness of the enforcement processes for the WELS program is supported. We recommend that this review commence with the introduction of any new initiatives arising from the current review of the Act and operate in parallel with the implementation of the new requirements. This will minimise the impact of further delays in responding to industry's call for improvements and enable continual fine-tuning of the system as it continues to develop. The results of this review should be made public to demonstrate system improvement to stakeholders and stimulate additional feedback and ideas for improvement as the system develops. A "scorecard" of activities regularly updated and circulated by the WELS Regulator would serve this purpose.

Before any assessment of the effectiveness of the enforcement can be made the base case needs to be understood. Work needs to be done to better understand the relative levels of manufacture or import of products subject to WELS and the models and quantities registered, versus those sold. There is some information available for large, "visible" products of high value (eg. for washing machines) but any data on hand for small, low volume items imported in bulk and distributed by means other than retail outlets probably underestimates the magnitude of the problem. Until the problem is better defined and understood it will be difficult for anyone to have confidence that enforcement efforts are adequately resourced and focused.

As one criterion for assessing the effectiveness of the scheme we suggest that there should be a means of quantitatively assessing the actual costs and other disadvantages of compliance compared to the advantages in the market of non-

registration and / or non-compliance. For example, rebates available for some products may encourage suppliers to take the risk of making false claims to obtain short term advantages in the market, particularly where the risk of being identified, tested and prosecuted are thought to be low.

The members of Ai Group and other industry associations have a vital interest in the success of the WELS Scheme. They also have experience in all aspects of the implementation and operation of such schemes – for this reason it is essential that they be given the opportunity to provide input to any review of the scheme.

On Response 6.3

Despite the origin and implementation of WELS and Watermark residing in different agencies, industry strongly suggests some appropriate method of meshing these two processes be found.

If it is accepted that WaterMark supports community health and safety, and WELS supports water efficiency, it is obvious that WaterMark certification must be a prerequisite for WELS registration, since consumer health and safety is paramount. The report (page 125) notes the view of the HRSC that WaterMark has the potential to impose additional costs on businesses currently supplying WELS compliant products that are not WaterMarked – we do not believe that this notion is valid unless a possible threat to community health and safety can be properly costed and compared to the costs to one party of WaterMark compliance. WaterMark Standards need to be recognised as guides to good practice in product design. Mandatory compliance is a means of minimising the risk to community health and safety

We acknowledge the jurisdictional issues associated with the meshing of the two schemes and applaud the moves to have the National Plumbing Regulators Forum take responsibility for the WaterMark scheme. Unfortunately the NPRF lacks a national focus. This situation, along with similar dilemmas in gas and electric safety regulation, highlight the need for a suitably empowered national body tasked with the enforcement of nationally consistent regulations related to community health and safety. This same agency could, logically, take responsibility for energy and water efficiency

On Response 6.4

Benchmarking of the enforcement activities by state regulators of the MEPS and labelling programs is supported. In addition, a clear analysis of the complementarity of these programs must be provided to industry within the framework of the Wilkins Review.

Similarly, we consider that regulations like MEPS and WELS have a place where market failure of alternative approaches has been proven. Alternatives to regulation need to be explored and individually discounted as part of a rigorous Regulatory Impact Statement for any future programs of this type and for any future changes to or expansion of the WELS Scheme.

Implicit in the success of achieving the aims of Responses 6.2, 6.3 and 6.4 are standards developed through consensus by representative of all stakeholders. There is a high level of dissatisfaction with the ability of the current standards development processes to deliver standards at the rate required to support new and amended

regulations, particularly in the area of energy efficiency. Ai Group has participated in the discussions surrounding the various options for new processes and models for standards development and await the opportunity to test the new processes and ultimately participate in their use. We do however, have some concern with the emphasis on speed over quality of outcome inherent in the options. Like WELS, we suggest that the development of the new approach needs to be monitored by a parallel review process enabling fine tuning along the way in response to issues as they arise.

On Reponse 6.5

Ai Group is a founding signatory of the National Packaging Council, and currently sits on the Executive Council. Member concerns with the implementation, measurement and enforcement of the program stem mainly from the fact that many organisations still remain outside the voluntary scheme and do not have to comply with its targets. Although such organisations are technically subject to stricter targets under the NEPM, industry evidence indicates that poor enforcement and compliance means that 'free-riders' is an issue with the scheme at the moment. This diminishes the impact of the scheme for signatories and leads to fears that competitors are not subject to similar treatment.