

# **Submission to Productivity Commission**

## **Re: Issues Paper on Standards and Accreditation**

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**21 April 2006**

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## **1 The appropriate role for the Australian Government in relation to standard setting**

The Productivity Commission Issues Paper states that:

As discussed above, governments may improve outcomes where they address market failures cost-effectively. Especially where standards are referenced in regulation to address significant market failures, benefits to the community may accrue, in a range of areas such as through improved management of public health, safety and environmental risks. Government backing may also enhance domestic and international trade by giving greater credibility to Australian conformance assessment.

A role for government may exist in relation to the funding, provision and/or coordination of technical infrastructure where the market (in this case private sector standards and accreditation organisations), in the absence of government intervention, would not adequately perform such roles. In economic terms, the case for government intervention in the standards and conformance infrastructure generally rests on a consideration of the benefits, domestically and/or internationally, from government involvement relative to the costs of such intervention.<sup>1</sup>

The Issues Paper raises three questions concerning the role of government in standards development;

- What is the appropriate role of the Australian Government within current standard setting and accreditation processes?
- What difference would it make if the Government had no influence on the work of Standards Australia and NATA?
- Should any of the current functions of standard setting and laboratory accreditation bodies be performed directly by government or solely by the private market?

Alinta considers that essential infrastructure standards perform a vital service to industry by providing the technical basis for orderly commerce, national and international trade, technical harmony between manufacturers and governmental regulatory activities. This is particularly so in the areas of electricity and gas infrastructure where standards perform the following key tasks:

- Provide a common framework of standards nationally so industry and consumers are not disadvantaged by differing standards between jurisdictions;
- Provides a link to international standards that mean imports and exports can be sold into world and domestic markets that reduces the costs of imports of essential infrastructure and encourages export performance; and,

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<sup>1</sup> Productivity Commission, Issues Paper, Standards and Accreditation, March 2006, p.12

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- Provides a link to many consumer retail products that use electricity and gas and which provide a safe operating environment.

As argued above in electricity and gas industries, standards and accreditation impact on every citizen in their daily lives through the products and services they consume, the buildings they occupy, the mode of transport they take and the workplaces in which they are engaged. The standards allow suppliers to access markets by demonstrating that their products or services meet desired or essential characteristics.

The adoption of international standards and agreements between countries to mutually recognise each other's conformance assessments can reduce multiple retesting, saving time and costs and provide an effective and efficient base to trade and development in essential infrastructure industries.

Given the importance of standards to a modern economy and to international trade Alinta considers it important for the Government to maintain responsibility for Standards Australia and to resource it appropriately.

Alinta considers that the role of Government, given scarce resources, is to ensure markets do not fail due to standard development failing to be efficient and effective. In this light Alinta would like to suggest the criteria for standards to meet to ensure that community welfare is maximised;

1. Develop standards in a timely and consultative manner;
2. Develop standards that meet the needs of industry and consumers in an effective and efficient manner;
3. Only develop standards that meet the test of maximising net community benefits;
4. Ensure international standards meet domestic needs in an efficient and effective manner; and<sup>2</sup>
5. Develop standards that are performance based wherever possible rather than input based.

Alinta considers that it is also important, given scarce resources, for some hierarchy to be introduced in standard setting to better target such resources to key standards. Such a hierarchy could be based on the following:

- Standards which are important to the economic development of Australia;
- Standards that are important for the health and safety of the Australian population; and
- Standards that are used in governmental regulation and which involve a legal penalty

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<sup>2</sup> It is important that the national standards body works with national governments to present a uniform Australian position in international forums to ensure that domestic standards maximise domestic welfare.

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On the other hand, industry generally may need to be able to use the national standards system to develop voluntary solutions as an alternative to government intervention in the market. Alinta supports such developments; however, it is important that voluntary standards that do not meet the above criteria should be accorded a lower level of support in terms of time and effort in standard development. Alinta also considers that voluntary standards should not be utilised for regulatory purposes unless they go through a Regulatory Impact Statement before any such adoption.

In terms of current circumstances it is important to assess the performance of Standards Australia in terms of its performance against the above key criteria for the management of standards.

Alinta has been involved in a number of standard developments including AS4645 Gas Distribution Network Management. This standard took about three years to finalise and such a performance does not meet the first key criteria set out above to “Develop standards in a timely and consultative manner”. The long development time was due to the combination of lack of resources (i.e. mainly relying on voluntary work) and the voting process for the approval of the standard. Alinta sees a number of problems with standard development in Australia that work against the effective and efficient development of standards which include;

- the use of the consensus model for decision making can lead to standards which are not effective (lowest denominator) or efficient (takes too long to reach agreement);
- combination of the voluntary basis of participation can lead to biases in standard development, gaming and lead to time blowouts given the consensus requirement; and
- use of economic analysis and Regulatory Impact Statements is largely missing in standard development and the need for such analysis and at what stage it should take place is a key issue in standards development and use.

## 2 The appropriate means of funding activities of Standards Australia

Alinta understands that Standards Australia is funded by the Australian Government, to represent Australia in a number of international fora, because it is considered to be in the national interest. The Commission’s Issues Paper quotes that:

International conventions bring considerable benefits in a wide range of areas to individual nations, particularly small and middle-sized countries. Australia has its say in the drafting of these treaties by becoming involved in the international fora in which they are negotiated. As a middle ranking power, Australia’s negotiating resources are finite. As a consequence, successive Governments have often sought to build international coalitions to advance our national interests. (Australia and International Treaty making, <http://beta.austlii.edu.au/au/other/dfat/reports/aitm2.html>, accessed 26 February 2006).

Alinta agrees with these matters and considers the development of electricity and gas standards and international participation keeps the Australian electricity and gas industry abreast of standards and technological developments, and also may help influence

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international standard development to take into account of specific domestic needs and local conditions.

The Issues Paper raises a number of issues in terms of the funding model for standards Australia;

1. What criteria should be used for determining when or which of the activities of Standards Australia and NATA should be funded by government or alternatively by industry?
2. Should government funding be restricted to national interest activities in international fora? Should other public interest activities, such as writing standards to enable market failures to be regulated, also be funded?
3. Is government funding sufficient to cover the costs of activities undertaken by Standards Australia and NATA on behalf of the Government? What checks and balances should be established to ensure these funds are used optimally to cater for the public or the national interest?
4. Do Standards Australia and/or NATA price their services so that cross subsidisation is occurring? Is this appropriate? Could other public or private bodies undertake such national interest activities? If so, should the government tender for the activities?

Alinta understands that the total funding required to sustain Australia's Australian Standards development infrastructure is estimated to be in the order of \$100M per annum, with Standards Australia contributing in the order of 10 plus percent of that from its internal funds, and the Commonwealth some 2-3 percent with the vast majority being "in kind" contribution to committee participation.

Alinta considers that the criteria outline above which is based on standards being effective and efficient should form the basis of the Australian Government's funding approach to Standards Australia. This implies that the criteria outlined above are used as the key performance criteria of standards Australia and that the funding model is based on the concept that the Australian government should fund the key standards given their benefits to the Australian community as a whole:

- Standards which are important to the economic development of Australia;
- Standards that are important for the health and safety of the Australian population; and
- Standards that are used in governmental regulation and which involve a legal penalty

Alinta considers that industry should fund the development of voluntary standards the do not meet the above criteria and that when a voluntary standard become a non-voluntary standard the Australian government should fund the Regulatory Impact Statement for the development of new standards, in relation to any revision of the priority standard and any subsequent revision to transitional standards (that move from voluntary status to a legal requirement).

Alinta also considers that the voluntary basis of standard making needs major reform to ensure standards are effective and efficient. For example Alinta favours a model where

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there is a more project basis to the development of standards including advanced drafts, face-to-face engagement supported by alternatives such as video conferencing, and faster production times supported by stronger professional project management and secretarial support. The use of consultants, where appropriate, should be funded to ensure standards can be developed in the effective and efficient manner. Australia requires additional standards development capabilities supported by an appropriate public funding model.

### 3 The Adoption of Standards into Regulations

#### The Regulatory Impact Statement Process

A Regulatory Impact Statement (RIS) must include a statement of the objectives of the proposed statutory standards, a statement of other practical means of achieving those objectives, including other regulatory as well as non-regulatory options and an assessment of the costs and benefits of the proposed statutory rule and of other practical means of achieving the same objectives.

The need for such a process is to ensure that standard development is effective and efficient and that only standards that maximise net community welfare will be adopted into governmental regulations.

Alinta would like to propose a method to ensure that such process is used efficiently and effectively in standards development;

- Only standards that are used in the priority areas and referenced in legislation should require Regulatory Impact Statements. The requirement on Standards Australia to undertake a RIS of such standards (new and changes to standards) would give greater confidence to federal or jurisdictional governments to adopt or reference standards developed by Standards Australia into legislation and reduce the need for jurisdictional specific standards being adopted into regulations and law ;
- Standards development should ensure that standards are developed in an effective and efficient manner and that wherever possible should be based on performance standards and be the lowest level of regulation consistent with the requirement; and
- When standards are used for any regulatory purpose (by federal or jurisdictional governments) especially for turning voluntary standards into legal standards such governments should be responsible for performing a RIS on the standard (even if it is part of a broader regulatory approach) as part of the process of introducing the standard into legislation or regulation, unless they can reference a RIS performed by Standards Australia.

A further important issue is how standards are used in regulation and the interface between federal and jurisdictional governmental responsibilities. It is important that when standards are adopted into regulations, the full suite of relevant standards is referred to and the correct jurisdiction takes responsibility for the action.

For example, many imported air conditioners, when started, produce voltage disturbances outside the Australian Standard on quality of electricity supply. Furthermore, these

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airconditioners are also inefficient as they have poor power factors. Such air conditioners cause additional costs on society as the costs of network enhancement cannot be applied to owners of such products given regulatory loopholes. The relevant standard has not been adopted in consumer affairs regulation and as such the electricity distribution companies have no effective means to enforce the relevant standard when such air conditioners are available for sale via retail outlets.

In conclusion Alinta also reiterates that the necessary funding must be provided to Standards Australia to implement the delivery and management of this new proposed approach.