

## **Conformance and Standards Services Pty Ltd (CaSServ)**

### **Submission to Productivity Commission (PC) on the Draft Research Report into Standards Australia (SA) and the National Association of Testing Authorities (NATA)**

#### **Introduction.**

The general and specific comments, including the confidential comments, in response to the original call for comment on this Study as submitted by CaSServ on 21 April 2006 are still applicable as comment on this Draft Research Report. It is requested that those comments be re-considered by the Study Team. In particular the "Disclosure" statement in those comments is also applicable to these comments.

The following additional comments are listed against the draft recommendations of the Draft Research Report dated July 2006 that asks for comment by 1 September 2006. In doing so, reference is also made to the text of the Draft Report.

In submitting this comment, there appears to be no indication of whether or not it is to be made publically available.

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**Friday 1 September 2006**

## **Standard Setting Recommendations**

### **DRAFT RECOMMENDATION 5.1**

*The Australian Government should maintain Standards Australia's status as Australia's peak non- government standards development body and the role of the Standards Accreditation Board in accrediting other standards development organisations to make Australian Standards.*

#### **CaSServ Comments on R5.1**

This recommendation is generally supported. However further consideration needs to be given to the Standards Accreditation Board (SAB) in respect of its placement

within Standard Australia, and its role and coverage of the accreditation of the development of National Standards by Standards Development Bodies (SDOs) that can be both government and non-government bodies.

How SDOs are accredited in Australia and by whom, the following issues covered in the Report need to be considered:

1. The suggestion by Standards Australia that its own processes and procedures should come under the scrutiny of the SAB. If the SAB remains within Standards Australia, regardless of the presence of a “Chinese wall” between the SAB and its own Standards development activities, the perception will be that the SAB cannot act independently.
2. Many Australia SDOs, both in government and non government, develop National Standards and other standards normative documents and could benefit by having their processes and procedures accredited by an independent, government recognised body. In many cases the SDOs involved do not want their “standards” to be Australian Standards but simply National Standards. There are many reasons for this including the fact that these may be administrative standards or codes that differ greatly in content from the technical content of Australian Standards.

**It is suggested that the role of the SAB be transferred to the Joint Accreditation System of Australia and New Zealand (JAS-ANZ) as this activity falls within its core competencies.** JAS-ANZ would be able to accredit both government and non-government SDOs to develop Australian National Standards and in those cases where these are to be Australian Standards; such accreditation could be accepted by Standard Australia under a secondary agreement. There are a number of international precedents whereby the national accreditation body also accredits SDOs to develop National Standards; this includes ANSI (US), SCC (Canada) and DSM (Malaysia).

## **DRAFT RECOMMENDATION 6.1**

***The Australian Government should, in conjunction with Standards Australia, improve the effectiveness of Australia’s participation in international standard-setting fora by more clearly articulating the national interest objectives to be pursued. Australia’s future participation must be focused on those international standardisation activities with the potential for the greatest net benefits for the Australian community.***

### **CaSServ Comments on R6.1**

This recommendation is generally supported. It is understood that this recommendation underpins the current Standards Australia policy when

participating in international and regional standards development. Any such policy should be equally applicable to the participation of other members of the Australian Standards and Conformance infrastructure, viz:

- National Association of Testing Authorities (NATA).
- Joint Accreditation System of Australia and New Zealand (JAS-ANZ).
- National Measurement Institute (NMI).

It could be argued that this issue would be best covered in a more embracing strategy covering all aspects of standards and conformance.

**It is suggested that the issue of involvement in international and regional standards development be included in an all embracing National Standards and Conformance Strategy.** This would be developed by the Australian Government and the States and Territories in conjunction with Standards Australia, NATA, JAS-ANZ and the NMI. In developing this Strategy, the development of similar policy documents in France, UK, USA and elsewhere should be reviewed.

## **DRAFT RECOMMENDATION 6.2**

***The Australian Government should, in consultation with Standards Australia, ensure the most appropriate expert representation in international standardisation activities and increase funding in order to address any financial barriers to such representation.***

### **CaSServ Comments on R6.2**

This recommendation is strongly supported.

Participation should remain the responsibility of the Australian committees that monitors the relevant regional and international work. However greater transparency in the selection of delegates and the result of their participation is needed.

The funding issue should be viewed in the light of the very secure funding basis of Standards Australia and the fact that less than 20% of the Australia funding of \$2.1M to Standards Australia finds its way to support stakeholder representation on international standards development work. Standards Australia has a sufficient funding base to fund its own involvement in regional and international standards development as is the case for JAS-ANZ that receives no Australian Government funding for its involvement in regional and international accreditation for its activities in the “national interest”.

It is suggested that a process be put into place by Standards Australia to more transparently advise stakeholders about how and why delegates to international and regional standards development are selected and funded. In addition it is suggested that at least 50% of the current Australian Government funding of \$2.1M (that does not need to be increased) be allocated to funding relevant stakeholder representatives to international standards development meetings.

### **DRAFT RECOMMENDATION 6.3**

*Standards Australia should facilitate more direct participation by Australian consumer bodies on the ISO Committee on Consumer Policy and its working groups.*

#### **CaSServ Comments on R6.3**

This recommendation while admirable is generally not supported in its current form. A similar argument about representation can be made in respect of other stakeholder groups and SMEs that have difficulty in funding participation. The participation of representatives of Consumer Bodies should be required to fulfil the same national interest test as representatives of other stakeholder groups and funding should be allocated from the increased funding as proposed under Recommendation 6.2 above.

### **DRAFT RECOMMENDATION 6.4**

*The Australian Government should, through the Memorandum of Understanding, continue to require that in the development of Australian Standards there is a presumption in favour of adopting international standards, and that Standards Australia must publish the compelling reasons where an Australian Standard departs from an equivalent international standard. However, the suitability of such standards must continue to be assessed on a case-by-case basis by Standards Australia and by governments through their regulatory impact analysis processes where the Standards are to be referenced in regulation.*

## **CaSServ Comments on R6.4**

**This recommendation is strongly supported.** In doing so it has to be noted that the provisions of this recommendation are fully in line with current Standards Australia policy as outlined in its Standardization Guide 7.

## **DRAFT RECOMMENDATION 7.1**

***Standards Australia's justification process for the development of new or amended standards and the setting of priorities should be made more transparent and robust including by the publication of reasons for decisions, the establishment of a more open appeals process, and ensuring that the primary decision criterion must be a net benefit to the community as a whole.***

## **CaSServ Comments on R7.1**

**This recommendation is strongly supported.** It is the weakest element of the current Standards Australia standards development process is at the standard initiation process. The concept that the need for new standards and the revision of existing standards can be left to the good judgement of committees, albeit committees of representative stakeholders, is unsatisfactory and greater levels of transparency and community involvement in the decision making process is essential. Many SDOs, especially those in government, have to prepare comprehensive proposal for project initiation including risk analysis, cost- benefits, impact statements, etc.

**It is suggested that Standards Australia introduces a new process at the initiation of new standards development projects having elements including the following:**

- **Cost benefits analysis, including cost of introduction of any conformity assessment likely to emerge after such standards are published..**
- **Resources, both internally and by stakeholders.**
- **Any impacts on regulations.**
- **Project plan including delivery times.**
- **Statement of impact on those affected by the standard (including end use consumer impact).**

This project initiation proposal should be the subject of a transparency arrangement to allow comments by all stakeholder groups. See also comment under Recommendation 7.2 below.

## **DRAFT RECOMMENDATION 7.2**

***For standards that are to be referenced in regulation, a rigorous impact analysis must be undertaken by governments in compliance with the RIS requirements of the relevant jurisdiction (or COAG requirements for intergovernmental action). In order to best facilitate consideration of other regulatory and non-regulatory alternatives, RISs must be commenced at the earliest practicable opportunity.***

***While the preparation and coordination of the RIS is the responsibility of the regulating government, Standards Australia should provide technical input and other information as required by the drafters of the RIS and where such input is substantial and additional to normal activities, be compensated accordingly.***

### **CaSServ Comments on R7.2**

**This recommendation is supported.** However much of what regulatory bodies require for RISs should be done by Standards Australia in the project initiation stage as covered under Recommendation 7.1 above.

## **DRAFT RECOMMENDATION 7.3**

***Consistent with the fundamental principle of transparency and accessibility of legal requirements, the Australian Government, or other relevant governments, should fund Standards Australia to provide low cost access to Australian Standards referenced in regulations. The implementation of this recommendation will require further examination by the Australian Government of the current contractual arrangements between Standards Australia and SAI Global (under which SAI Global holds the exclusive rights to sell Australian Standards).***

### **CaSServ Comments on R7.3**

**The underlying philosophy of this recommendation is supported.** It is debateable whether government funding is really required for what is a commercial activity. It has to be recognised that the price of Australian Standards are very low by international practice and SAI Global is restricted in its ability to increase prices by the Publishing Licence it has with Standards Australia. One of the main problems faced by users of standards, especially by architects and other users of the Building Code of Australia (BCA), is that they need access to the content of the

latest editions of standards often for short periods of time and see no need to have permanent copies of standards. Often all that is necessary is the capacity to view standard for a short period to see if they can be referred to in specifications or to complement legislation such as the BCA.

**It is suggested that SAI Global be approached to make available the whole suite of Australian Standards and Standards Australia Deliverables or subsets thereof as “Virtual Libraries” on a pay by page viewed or by time viewed with additional charging for any downloads.** It can be argued that such an arrangement would increase access by users and thus the net effect to the income derived by SAI Global would be the same as maintaining the status quo.

#### **DRAFT RECOMMENDATION 7.4**

*Given the cost of access to Australian Standards, the Australian Government, and other governments, should seek to minimise the number of referenced standards and, in particular, avoid unnecessary cross references to Standards which make it necessary to purchase multiple Standards documents.*

#### **CaSServ Comments on R7.4**

Partly agree with this recommendation. It has to be recognised that internationally accepted good standardization practice dictated that the content of standards are not duplicated in other standards to ensure that content can be keep up to date. This recommendation will be difficult to implement when international standards are adopted in accordance with Standards Australia’s obligations as a signatory to the WTO TBT Code of Good Standardization practice.

## **DRAFT RECOMMENDATION 8.1**

***Standards Australia should improve the balance of interests represented on committees by:***

- ***increasing the participation of small business, consumer and other community interests;***
- ***requiring sector boards to be more rigorous in ensuring appropriate balanced representation on technical committees, including by regular reviews of the composition of such committees;***
- ***requiring all committee membership lists to state publicly not only the name of the nominating organisation but also the name of the company or entity from which members come; and***
- ***improving complaint handling processes to deal with concerns about the lack of representational balance.***

### **CaSServ Comments on R8.1**

**This recommendation is supported in parts.** However there are some details that may be difficult to implement and the following comment relates to the dot points above:

- There is no doubt that there should be more participation of small business, consumer and community interests. To this should be added academic interests, the other significant stakeholder group that has funding problems. These other groups should be added to the current arrangement Standards Australia has to fund expenses for consumer representatives.
- Currently representation on committees is a matter for Standards Australia's executives with Sector Boards providing advice. It would be best to leave this arrangement in place but with more transparency of how representation is selected and increased opportunity for stakeholders to nominate.
- The current system of only including nominating bodies is supported. Giving out company names will result in lobbying to these companies rather than to nominating bodies that are best able to handle such approaches.
- Agree. This needs to be included in an increased transparency package.



It is suggested that Standards Australia instigates a more transparent process to solicit membership of committees including an appeals process with the relevant Standards Sector Board being the final appeals body. It is further suggested that Standard Australia extends its current arrangement for funding the expenses of consumer representatives to other representatives of small business and academia with this funding being increased from the current amount (approx \$70K) to \$500k. This funding could be the balance of the Australian Government funding after ISO and IEC membership fees are paid and delegates are supported as proposed under Recommendation 6.2 above.

## **DRAFT RECOMMENDATION 8.2**

*Standards Australia should continue to adopt the consensus decision making model for the development of Australian Standards. Standards Australia should make the standards development process more accessible to the general public, including by:*

- *better promotion of public comment opportunities and guaranteeing minimum time periods for consultation; and*
- *making all significant documents and other information readily accessible via the internet.*

### **CaSServ Comments on R8.2**

**This recommendation is strongly supported.** See earlier comment under Recommendation 6.2 about improving the transparency of the processes and procedures used by Standard Australia. If Standards Australia was independently accredited as proposed under Recommendation 5.1, the issue of an appeals mechanism could be included in the accreditation process.

**It is suggested that Standards Australia be subject to accreditation by an independent Standards Accreditation Board and that as part of the accreditation process, a separate Appeals Board be set up under the direct auspices of the Standards Australia Council to oversee complaints.**

### **DRAFT RECOMMENDATION 8.3**

***Standards Australia should reduce barriers to volunteer participation on technical committees by adopting measures to reduce the cost of participation. In addition to the same measures necessary to improve efficiency and timeliness (see draft recommendation 8.4), Standards Australia should fund volunteers, particularly small business and consumer representatives not supported by their employers, for travel and accommodation expenses.***

#### **CaSServ Comments on R8.3**

**This recommendation is strongly supported.** See the CaSServ recommendation under Recommendation 8.1 above.

### **DRAFT RECOMMENDATION 8.4**

***Standards Australia must continue to improve the efficiency and timeliness of Standards development, including by:***

- ***making greater use of independent experts to prepare early drafts of Australian Standards;***
- ***reducing face-to-face meetings, including through better use of technology;***
- ***increased use of partnering arrangements; and***
- ***improving project management.***

#### **CaSServ Comments on R8.4**

**This recommendation is only supported in part.** These are laudable recommendations if they are looked at in isolation of the development of Standards Australia in the last 2 years. Most of the deficiencies that this recommendation is trying to rectify are due to a lack of technical staff within Standards Australia. Although total staff numbers have increased, there appears to have been no effective increase in the number of staff directly involved in standards development. Specific comments on these issues are as follows:

- Standards Australia has been using independent experts to prepare early drafts for some time. This is largely a matter of funding and a lack of internal staff and expertise.
- Better use of technology requires a change of culture both for Standards Australia technical staff and committee members.

- The concept of “partnering” that has recently been introduced by Standards Australia is seen by many stakeholders as a means of extracting more funds for a Standards Australia that is well funded post the float of SAI Global and the sell down of its shares in SAI Global.
- There is always a need to improve project management.

## **DRAFT RECOMMENDATION 8.5**

***Standards Australia should strengthen its formal appeals and complaints handling processes. Such processes must be robust, transparent and sufficiently independent and cover all grievances relating to any aspect of the standards development process, including appeals against decisions relating to the development of a new or amended standard.***

### **CaSServ Comments on R8.5**

**This recommendation is strongly supported.** See earlier comment under Recommendation R8.1 about transparency in the selection of committees. If Standards Australia was independently accredited, as proposed under Recommendation 5.1, a robust appeals and complaints handling process would form part of the accredited system.

**It is suggested that a semi-independent appeals and complaints committee, with elected members who are not members of any standards development committees, be set up under the direct aegis of the Standards Australia Council.**

## **DRAFT RECOMMENDATION 9.1**

***The Australian Government should continue to support, with some reallocation of funding and possibly at an increased level overall, Australia’s participation in international standardisation activities, including:***

- ***partial funding for Standards Australia’s membership of, and participation in, ISO and IEC and regional standardisation activities;***
- ***partial, but increased, funding for industry participation in ISO and IEC meetings;***
- ***support for involvement in a broader range of specified international fora; and***

- *full funding for participation by consumers in the ISO Committee on Consumer Policy.*

*In addition, support should be provided, through funding or in-kind support, for domestic standardisation activities, including:*

- *the secretariat of the Standards Accreditation Board;*
- *on a case-by-case basis, development of regulatory standards and input into the preparation of associated regulation impact statements; and*
- *enabling low-cost access to regulatory standards.*

#### **CaSServ Comments on R9.1**

**This recommendation is generally supported** provide any additional funds are targeted and do not go towards the general funding of Standards Australia that is considered to be well funded as covered in earlier comments. If the SAB is set up as an independent body under JAS-ANZ with Standards Australia as its major customer, it could be self funding as JAS-ANZ is for its other accreditation activities.

#### **DRAFT RECOMMENDATION 9.2**

*The Australian Government should continue to use the Memorandum of Understanding (MoU) as the most appropriate instrument for setting out the basis for its relationship with Standards Australia. While the terms of the current MoU generally remain appropriate, some changes are necessary including to:*

- *give effect to many of the specific draft recommendations in this report;*
- *improve the clarity of the document and its objectives, in particular by better defining public interest activities;*
- *deal with the special requirements of regulatory standards; and*
- *require public reporting on an annual basis of its performance against the MoU obligations.*

#### **CaSServ Comments on R9.2**

**This recommendation is supported.**

# Laboratory Accreditation Recommendations

## DRAFT RECOMMENDATION 12.1

*The Australian Government should more rigorously progress the mutual recognition of conformance assessment in multilateral and bilateral fora. Similarly, NATA should continue to build on its voluntary mutual recognition arrangements.*

### CaSServ Comments on R12.1

**This recommendation is only partly supported..** Any government activity concerning mutual recognition of conformity assessment must also include JAS-ANZ as well as NATA.

## DRAFT RECOMMENDATION 12.2

*Regardless of the action of other countries, the Australian Government should continue to progress recognition of accredited overseas test results for the purposes of regulation. Only when serious public health risks are involved or where clearly established concerns exist about a country's accreditation capacity, should the Australian Government rely exclusively on NATA, AQIS or TGA accreditation.*

### CaSServ Comments on R12.2

**This recommendation is only partly accepted.** The Australia Government should also include recognition of overseas product certification and/or test results depending on the product or service concerned. Accreditation JAS-ANZ must also be considered.

## DRAFT RECOMMENDATION 12.3

*NATA should ensure that the extent and design of proficiency testing are adequate through more extensive consultation with all stakeholders, including customers of laboratory services. This may include greater customer representation on NATA's Accreditation Advisory Committees or the establishment of a committee advising on appropriate proficiency testing requirements.*

#### **CaSServ Comments on R12.3**

**This recommendation is supported.**

#### **DRAFT RECOMMENDATION 12.4**

***NATA should actively promote a more competitive proficiency testing services market. NATA should assume more of a coordinating role in the provision of proficiency testing services for laboratory accreditation purposes including by:***

- ***publicly detailing the criteria for the selection of proficiency testing programs necessary for accreditation; and***
- ***requiring accredited laboratories to inform NATA of the results of such specified tests in order to maintain accreditation.***

#### **CaSServ Comments on R12.4**

**This recommendation is supported.** Proficiency testing should be, and be seen to be, a commercial competitive activity.

#### **DRAFT RECOMMENDATION 12.5**

***NATA should ensure and be able to demonstrate that its proficiency testing subsidiary is operated at arms length and not given favourable treatment or inappropriate referrals vis-à-vis competitors.***

#### **CaSServ Comments on R12.5**

**This comment is supported** and complements the CaSServ comment under Recommendation 12.4.

#### **DRAFT RECOMMENDATION 12.6**

***A formal, detailed complaints handling process should be established by NATA to deal with any complaints arising from NATA's proficiency testing requirements for laboratory accreditation and the conduct of its own, or its subsidiary's, proficiency testing programs.***

#### **CaSServ Comments on R12.6**

**This recommendation is strongly supported.** It is suggested that a separate appeals and complaints body be set up similar to that recommended for Standard Australia under Recommendation 8.5.

### **DRAFT RECOMMENDATION 12.7**

*The Australian Government should not proceed with the imposition of mandatory NATA accreditation in the radiology area until a comprehensive, Government-initiated review of its costs and benefits, as well as an assessment of alternative forms of accreditation, has been undertaken.*

#### **CaSServ Comments on R12.7**

**This recommendation is strongly supported.** An independent analysis of radiology practices should indicate that the current use of ISO 17025 by NATA is an incorrect application of this laboratory accreditation standard as the delivery of radiology services is much closer to a managements system or the delivery of a products and radiology practices should be certified accordingly. Any bodies providing such certification should be accredited by JAS-ANZ.

### **DRAFT RECOMMENDATION 13.1**

*The Australian Government should continue to recognise NATA as Australia's non-government national authority for the accreditation of laboratories and certified reference material suppliers and as the peak authority for the accreditation of inspection bodies.*

#### **CaSServ Comments on R13.1**

**This recommendation is only partly supported.** NATA cannot be the "peak authority for the accreditation of inspection bodies as both NATA and JAS-ANZ are recognised by the Australian Government as providing this service.

**It is suggested that NATA be recognised in its MOU with the Australian Government as "an authority for the accreditation of inspection bodies".**

## **DRAFT RECOMMENDATION 13.2**

*The Australian Government's funding to NATA should be allocated only to areas with clear public benefits. Future Government grants should:*

- *fund the costs of NATA's involvement in the OECD Panel on Good Laboratory Practice and its participation in mutual recognition evaluations;*
- *partially fund the costs associated with NATA's involvement in ILAC, APLAC and relevant ISO/IEC committees; and*
- *provide funding for special projects which NATA undertakes directly for the Australian Government, such as involvement in international negotiations.*

*The Australian Government should not underwrite proficiency testing conducted by NATA, or its subsidiary, unless it can be robustly demonstrated that in specifically identified areas such testing is in the public interest and that it is not commercially viable.*

### **CaSServ Comments on R13.2**

This recommendation is only partly supported. Most of these activities should be seen as part of the cost of doing business in laboratory accreditation that should be passed on to NATA's customers. If this funding remains, then consideration should be given to restoring Australian Government funding of similar international and regional activities undertaken by JAS-ANZ.

## **DRAFT RECOMMENDATION 13.3**

*The Australian Government should continue to use the Memorandum of Understanding (MoU) as the principal means of setting out its relationship with NATA and, while it is basically sound, amendments are warranted including:*

- *NATA's obligations should be made clearer by better defining public interest activities, by an obligation to keep laboratory standards high while minimising the fees it charges, and by an obligation to maintain and publicise a list of proficiency testing providers;*



- ***NATA should be required to publicly report annually on its performance in meeting the MoU obligations; and***
- ***some other minor updates to reflect NATA's increasing role in service related industries; the establishment of the National Measurement Institute; the creation of a new NATA subsidiary, Proficiency Testing Australia and changes in some standards.***

**CaSServ Comments on R13.3**

**This recommendation is supported subject to the reservations expressed under earlier Recommendations.**