Australian Gas Association Submission

to the

Productivity Commission Review

of the

Australian Government's Relationship

with

Standards Australia Limited

and the

National Association of Testing Authorities Australia

Australian Gas Association (AGA) Submission to Productivity Commission
'Standards and Accreditation' - April 2006
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1 Introducing AGA

The Australian Gas Association (AGA), is a not for profit organisation originally set up by the general gas industry and has been, for more than 40 years, the most significant Australian certifying agency for gas appliances and gas related components.

Until 2004 AGA was also the Standards Development Organisation, which prepared and published Australian technical gas safety standards using the considerable expertise of its staff and membership. That expertise still resides within AGA and continues to be provided for standards preparation.

2 Issues for the gas appliance industry

As a certifying agency for gas appliances/components, nominated by all Australian States and territories, AGA must assess conformance with mandated national standards and simultaneously assess fitness for safe performance in the Australian environment. Deficient standards can and do fall short of the requirements for assessment for safe performance.

Because regulation of gas appliance and gas use safety resides with State and Territory authorities, the regulatory framework across Australia is diverse and in some cases inconsistent. The inconsistencies often impact adversely on providing conformance assessment, and are becoming more pronounced and difficult to reconcile. This is leading to a breakdown of the effectiveness of gas appliance and component standards as a means of ensuring personal and community health and safety, and also for facilitating efficient dealings with importers of gas appliances/components.

A case in point is the failure of the national gas standards development processes and State and Territory gas appliance regulators to resolve the issue of Trans Tasman Mutual Recognition with respect to gas appliances. After many years of consultation and discussion, the regulatory authorities recently indicated that resolution might be in sight. The uncertainty that has existed over the years has been a major burden on the gas industry, and AGA is not confident that satisfactory resolution, which ensures adequate safety outcomes, is at hand.

AGA believes the current effectiveness of standards development of gas appliance product, component and installation standards delivery is not adequate or satisfactory. There are fundamental issues in the gas safety regulatory framework that compound the problem, and it would be unreasonable to expect Standards Australia to take sole responsibility for inadequate effectiveness. However, the role and performance of Standards Australia must be factored into the issues and, matters of particular concern to AGA include:

- Inadequate trials (in some cases no trials at all) of either new standards or requirements that may have been introduced into a relevant standard in order to address technological advances in gas appliance/component designs.
- The time taken to make necessary alterations/additions/deletions to standards in order to meet new appliance/component designs.
- The inequities relating to the considerable and ongoing expertise contributed by AGA staff and members to the preparation of standards (and therefore Standards Australia) and then the need to repurchase that information.
- The growing push for acceptance of overseas standards, many of which appear to have been relaxed in terms of safety and none of which take account of unique Australian conditions and/or safety requirements eg. Differences in gas quality, gas supply pressures, electrical supply, climatic conditions, installation variations, etc.
- The increasing demand for AGA subsidised participation on standards writing committees and sub-committees.

AGA believes that:

- The need for national standards of high technical quality is beyond dispute. It is essential to have standards development facilitated by well-qualified and experienced resources and realistic workloads. Standards content should be driven from the 'coal face' with only 'light-handed' imposition of standards writing 'rules'.
- All new standards requirements should be adequately trialled and proven before adoption.
- All standards should be reviewed on a regular basis and, where necessary, modified to enable timely acceptance of new gas products of advanced or innovative design.
- Both the standards and Government gas regulatory regimes should include or allow a process, which operates between committee meeting dates to permit, without delay, acceptance of innovative designs, which are proven to comply with intended safety requirements.
- Where standards are made mandatory through regulation (as is the case with gas appliance and gas appliance installation standards) the regulating authority or authorities must put in place effective mechanisms for dealing with standards implementation issues (eg date of effect of any revision, interpretation of requirements). For gas appliances, there are many instances where an interpretation of the relevant standard is necessary for certification purposes, but the gas safety regulators are unwilling or unable to provide timely and coherent responses. Their preferred mechanism is to have the certifying agency obtain any interpretation from the relevant standards committee, but the consensus process and operational realities eg. Legal liabilities, confidentiality expectations, etc have, to date, made this an ineffective mechanism.
- Adoption of overseas standards must only occur following careful review and consideration of any potential impacts (not as the default position). It is appropriate to adopt an international standard where this is suitable, but, as already indicated, there can be profound safety and economic consequences that may need to be offset at least in the shorter term. In particular, differences in the regulatory framework(s) can result in unintended, incorrect or unsafe outcomes. Adoption of an international standard is very appealing in terms of economic rationalism and, perhaps, to the standards distributor, but it does remove almost all of the local participation and 'ownership' to the detriment of local users of the standard and, in turn, the possible safety of local consumers. An example of this in the gas appliance standards area is the desire by gas safety regulatory authorities to adopt European 'essential safety requirements' (prospectively AS 3645). Standards Australia is facilitating this (in effect providing 'regulation' on behalf of the Government agencies) despite the reticence of the gas industry and the obvious disparity of regulatory frameworks (European vs. Australian States and Territories). Such a standard could be effective and beneficial in Australia if a holistic approach is adopted which, to date, has not been taken.

3 Objective of consensus standards

The objective of 'consensus' technical standards, adopted by regulation to ensure personal and community safety, raises very complex issues for achieving 'effectiveness' and 'efficiency' in the context of a local community (Australia) within a global market place. From AGA's perspective, the compromises necessary in delivering consensus standards do erode the effectiveness and efficiency of developing and implementing gas appliance standards. It is probable, however, the 'consensus' principles embodied in Standards Australia's processes are (like democracy) overall the 'least worst' approach but in need of careful implementation by all parties involved.

4 Objective of personal and community safety

The objective of personal and community safety through the implementation of gas safety standards also raises very complex issues for achieving 'effectiveness' and 'efficiency' in the technical standards development and compliance assurance fields. Australians expect and experience very high personal and community safety in the use of gas appliances and components, and national standards play a very significant role in that outcome.

Despite significant efforts by Standards Australia and other parties it is not clear that sufficiently efficient and effective arrangements will evolve within a timeframe that meets growing demands. Gradual erosion of efficiency and effectiveness in the standards area may lead to a threshold beyond which personal and community safety degrades to an unacceptable level from which recovery will be difficult.

5 Supply chain operation

The efficiency and effectiveness of the overall standards supply chain is influenced by the relationships within that supply chain. Any monopolistic or restrictive arrangements are likely to reduce that efficiency and effectiveness, subject of course to any benefits of economies of scale for various elements of the process. The fact that 'Australian Standard' is a registered trade mark, that there is an exclusive licence granted to SAI Global Ltd until 2018, that many Standards Australia staff hold shares in SAI Global Ltd, and that Standards Australia is granted 'peak body' status, would appear to seriously inhibit market forces in the development and supply of national standards. AGA does not wish to quantify any reduced efficiency and effectiveness, but does note that a large number of AGA technical standards were 'rolled over' by Standards Australia without substantive technical change (thereby requiring users to purchase the new edition without any gain in value), and that lead times to make necessary amendments to the reissued gas appliance and component standards has become unacceptable to the industry. Delay in amending standards has a direct effect on what is available to the consumer, and adds costs to both the standards development process and the product supply chain. There can also be forgone or delayed health and safety benefits.

6 Restricted market arrangements

A further concern with restricted market arrangements is the situation where Standards Australia exercises rights over the use of any mandated standard, for compliance assurance purposes, through a registered mark within that mandated standard (e.g. WaterMark for plumbing products). The fee charged by Standards Australia is substantial and AGA is not able to determine if that fee is commensurate with the costs of managing the availability and use of the WaterMark. There is a great need to rationalise arrangements for indicating (to the consumer) the product compliance assurance (plumbing products, electrical appliances and components, and gas appliances and components each have very different arrangements which undoubtedly adds unnecessary cost to the process).

7 Proposals

AGA proposes its concerns/beliefs itemised, in Section 2 above, be considered by the Commission and that Standards Australia remain the peak body for national standards. This role should include international liaison with other peak bodies, and the assessment and acceptance of developed documents offered as national standards. But the role should not include any monopoly over the development, supply or implementation of any national standard. Industry Associations should be recognised as capable of developing documents suitable for adoption as national standards (with any necessary finishing), and should receive a share of returns from the sale of such standards and any other returns attributable to those standards. To this end, AGA would, on behalf Standards Australia and of the gas industry in general, be prepared to once more undertake its former standards development role. In such eventuality, some form of funding would have to be considered.

Regarding the role played by bodies other than Standards Australia in meeting objectives for national standards, AGA proposes that the present ineffective and inefficient situation with state and territory gas safety regulators be reviewed and improved. The Gas Technical Regulators Committee is not effective in providing policy leadership and direction or in resolving standards implementation or appliance conformance issues.

Finally, AGA would be very willing to enter into dialogue on any matter, or related matter, concerning this submission.