

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

4 – 6 June 2013

Question: BET 29

Topic: Australian Standards

Hansard Page: Tuesday 4 June 2013, Page 112-113

Senator MADIGAN asked:

Senator MADIGAN: When imported goods come in to Australia and they do not comply with the Australian standards that Australian companies have to comply with and do comply with and a claim is lodged by a company or, as in this case, by a group representing Australian companies, there is no enforcement from the ACCC?

Mr Gregson: Let me make this very clear. I think there was some confusion about this at our last appearance. Our role in relation to standards is limited. Mr Ridgway can supplement this given that much of it is in his area. But we have responsibilities for those standards that are declared mandatory under the Competition and Consumer Act. They are a fairly small set of the Australian standards. Our role otherwise in relation to Australian standards kicks in where there may be representations that may be false or misleading about compliance with particular standards. We have looked at allegations of those types of matters where a company, for example, says, 'We comply with Australian standards,' whereas they may not. There are other factors we might take into account in those situations as well, including whether there are other specific industry regulators whose job it is to ensure standards within a particular industry. So our role in relation to Australian standards is very narrow and really kicks in where we have a mandatory standard under the Competition and Consumer Act. The standards you are referring to are not mandatory standards under the Competition and Consumer Act.

Senator MADIGAN: If you do not police it and you do not enforce it, what government department does enforce it? The government are very good at chasing up Australian companies that do not conform with compliance laws.

Senator Thistlethwaite: Perhaps I can take that on notice. I would think that would be something that Customs would certainly look at, particularly if there is a complaint from an individual or corporation. Customs has powers with respect to policing the anti-dumping provisions in legislation. But I can take that on notice and come back to you about which particular government bodies have the specific responsibility.

Mr Sims: I think there are some state ones that do it as well.

Mr Gregson: There certainly are state regulators with responsibility for building codes. They have various obligations and standards they might apply in certain cases. There may be other regulators from a workplace and health perspective. But, as the minister said, we can provide on notice further details on who might be responsible for these particular standards.

Senator MADIGAN: I could say it is just a handballing exercise. But, anyway—

Mr Ridgway: The ACCC is one of a number of regulators that work with Standards Australia in relation to a number of its voluntary standards. As Scott has indicated, we enforce a number of standards that we draw from voluntary standards. Similarly, a number of other agencies, Commonwealth and state, draw from Australian standards and enforce them. Whether it is electrical safety or workplace safety, there are a whole range of regulatory agencies drawing off different Australian standards and enforcing them.

Mr Sims: We are to do with competition and consumer and product safety. Judgment So we deal

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with safety standards, but most of the standards are, 'Is the building built correctly?' or 'Are the materials appropriate?' We are not in the business of handballing responsibilities when they are ours. If they are ours, we will enforce them. But I think most of the stuff you are talking about is just not relevant to us. We will get back to you with a very full response.

Senator MADIGAN: Regarding ACCC procedures, what quality assurance system and sampling regime do you have for this type of product? Can you give me an example of any type of quality assurance that you employ for any product?

Mr Ridgway: The ACCC has a fairly substantial market surveillance and testing program that it coordinates with the state Australian Consumer Law regulators on an annual basis. So there are a large number of products that are—

Mr Sims: It is a product safety thing.

Mr Ridgway: It is a product safety responsibility.

Mr Sims: We do tests on products. We recently did them on safety helmets and a range of other things. We have a cycle of testing we do with our state colleagues often to do with the number of complaints. They are not random. We are looking at what complaints we are getting domestically and what incidents are getting reported to us—because, if there is an accident, people must report it—and what is happening overseas. We put this information together and that is the basis on which we do our product testing. So we are the safety regulator.

Mr Gregson: That is with those mandatory standards under the Competition and Consumer Act. It is not our role to be quality assuring products used in buildings per se.

Mr Sims: Or in manufacturing. Ours is a safety role for standards.

Mr Gregson: For consumers.

Mr Sims: Except if people are being misled. That is the only other way in. If somebody says, 'I guarantee I am complying with the standard,' and they basically are not then there is a role for us, but then we have to look at whether there is a regulator that has specific responsibility for that. Often they will be a state regulator. We will come back to you. You have asked this before. We will come back with a better sense of what our roles are and what other agencies' roles are.

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Answer:

The Australian Competition and Consumer Commission (ACCC) only has a limited role in enforcing standards. Generally speaking our role is limited to those standards prescribed by regulation under the *Competition and Consumer Act 2010*. Those product safety standards relate to consumer products such as, for example, the labelling of children's nightware and the design, construction, performance and labelling requirements for baby walkers.¹

There are many thousands of Australian or New Zealand standards currently published. On their own, these Standards have no legal status and there is no requirement for compliance by manufacturers, importers or suppliers.

In many cases these are picked up in other legislation and regulatory requirements. In this case, these standards are enforced by sectoral regulators such as those set out below:

Sector	Regulatory responsibility
Building and construction	Australian Building Codes Board (administration) State building and planning regulatory authorities (enforcement)
Energy	Commonwealth and State energy authorities
Electrical appliances	State electrical regulators
Food	Australia New Zealand Food Authority
Health and community services	Commonwealth and State health authorities
Transport	Commonwealth and State road safety agencies
Water and waste services	Commonwealth and State environmental safety regimes

Concerns may arise under the Australian Consumer Law where false or misleading representations are made by suppliers that their products meet a standard and they do not. The ACCC would consider those concerns in accordance with its Compliance and Enforcement Policy.

¹ See www.productsafety.gov.au for more information