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Submission
WATER EFFICIENCY LABELLING AND STANDARDS (WELS) SCHEME
Consultation paper

PPI Group is an organisation formed by companies coming together to achieve what they cannot achieve alone, who have come together to represent and promote the industry along with the wellbeing of the companies.

Like all trade associations and employer organisations, PPI Group exists to serve its members and PPI Group acts as the industry's voice in dealing with governments at all levels and other industry groups. PPI Group is the industry association that is exclusively dedicated to the plumbing products industry.

The WELS Scheme was established under the Water Efficiency Labelling Standards Act 2005. This joint initiative of the Australian, State and Territory Governments was to focus on water efficiency performance of plumbing products per se. It was never intended that the scheme would cover anything other than water efficiency; it would certainly not address any aspects of product quality or public health and safety requirements.

Industry is and has long been an active supporter of the WELS scheme. Industry support was delivered on the understanding that the prime principle underpinning the WELS scheme was the prerequisite for compliance with the requirements of both WaterMark and the relevant Australian Standard, and, after much debate and representation, WaterMark was finally required as a requisite for WELS registration in 2011.

This joint initiative has been well used by the Australian, State and Territory Governments to build water saving initiatives throughout the country and, indeed, it may well be argued that they are the major users of WELS.

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The WELS website states:

"When WELS began in 2005, projections were made on the reduction in the demand for water and energy to the year 2021. Since then, a more recent study has been completed (in 2008) which shows even greater savings than the 2005 projections. By 2021, Australians could save more than one billion dollars through reduced water and energy bills by simply choosing more efficient products.

By 2021 it is estimated that using water efficient products will help to:

- *reduce domestic water use by more than 100,000 megalitres each year;*
- *save more than 800,000 megalitres (more water than Sydney Harbour); and*
- *reduce total greenhouse gas output by 400,000 tonnes each year - equivalent to taking 90,000 cars off the road each year.*

Over one third of the water savings will come from more efficient showers, about 34 per cent from washing machines and 23 per cent from toilets and urinals."

On this information we contend that taps therefor deliver less than 10% water savings, while seemingly through the proposals contained in the Discussion Paper may be seen to be required to pay for an inequitable percentage of the WELS scheme.

PPI Group recognises the requirement of users pay. However, the determination that Industry is the only user is a gross misstatement of the real users: Australian, State and Territory Governments, Water Authorities, Industry and the Community. PPI Group contends that the 80% Industry / 20 % Government ratio should be reversed. The Australian, State and Territory Governments has used the scheme, very wisely, to assist in water efficiency programmes, encouraging the community to be water wise.

Industry continues to express strong support for WELS and certainly expressed ongoing support to the independent reviewer in 2010. However if industry had been asked would the support of the scheme continue if cost is participation were to increase anywhere from 200% to 5000% without any surety of cost of participation or clarity on definition of a model our response would have been somewhat different.

While WELS is perceived by industry as a scheme of value, that value cannot be unlimited. For a participant to move from paying $10,000 to a possible

$1.2 million, or $1500 over 5 years to $8750 per annum is totally unacceptable and the decision of the WELS administrators that:

> *"To commence the scheme it is proposed that a model would be* ***what is presently registered in the database as a model****. This assumption would be used to charge a registration fee based on the number of models registered in the scheme at its commencement"*

gives no comfort, and does not provide to industry any ability to determine how much participation will actually cost.

The options, provided in the consultation paper are all determined by a decision of the WELS administrators of what they perceive to be a model. No business can agree to participate in the scheme which basically gives the administrators a blank cheque.

The "special edition of InkWELS February 2012" reported the obvious support from industry for a flat fee arrangement where the number of participants is divided into the $1.48 million, and that is the licence fee for participation in WELS. This is an option that PPI Group could support. However, the tiered arrangement referred to in InkWELS then moves on to ensure complexity is built in and again relies on administrators determining what, in their mind, constitutes a "product", and we are delivered back to the model definition and this again provides for a greater administrative burden which is not supported by PPI Group.

While PPI Group accepts the current administrators seek to raise $1.48 million PPI group questions how these major increases in costs can be imposed without the preparation of a regulatory impact statement as required by COAG Best Practice:

"Regulation refers to the broad range of legally enforceable instruments which impose mandatory requirements upon business and the community, as well as to those government voluntary codes and advisory instruments for which there is a reasonable expectation of widespread compliance.

The principles of good regulatory practice and regulatory assessment requirements outlined in the Guide apply to decisions of COAG, Ministerial Councils and intergovernmental standard-setting bodies, however they are constituted. This includes bodies established by statute, or administratively by government, to deal with national regulatory problems.

The principles and assessment requirements apply to agreements or decisions to be given effect, whether at the Commonwealth or State/Territory level, or both, through principal and delegated legislation, administrative directions or other measures which, when implemented, would encourage or force businesses or individuals to pursue their interests in ways they would not otherwise have done."

Principles of Best Practice Regulation

COAG has agreed that all governments will ensure that regulatory processes in their jurisdiction are consistent with the following principles:

1. *establishing a case for action before addressing a problem;*
2. *a range of feasible policy options must be considered, including self-regulatory, co-regulatory and non-regulatory approaches, and their benefits and costs assessed;*
3. *adopting the option that generates the greatest net benefit for the community;*
4. *in accordance with the Competition Principles Agreement, legislation should not restrict competition unless it can be demonstrated that:-*
   a. the benefits of the restrictions to the community as a whole outweigh the costs, and
   b. the objectives of the regulation can only be achieved by restricting competition;
5. *providing effective guidance to relevant regulators and regulated parties in order to ensure that the policy intent and expected compliance requirements of the regulation are clear;*
6. *ensuring that regulation remains relevant and effective over time;*
7. *consulting effectively with affected key stakeholders at all stages of the regulatory cycle; and*
8. *government action should be effective and proportional to*

PPI Group contends that the cost about to be imposed on industry does not generate the greatest net benefit for the community (3) nor do the benefits of the restriction to the community as a whole outweigh the costs (4)

On the issue of allowing any person to register product PPI group opposes this unconditionally. For the Australian government to allow any organisation who is not the holder of IP, or licensed to act on the half of an owner t,o register product is a serious breach of IP and contractual relationships between parties in Australia. Given that the WELS scheme requires provision of technical data and WaterMark licence details this proposed amendment complicates an already overcomplicated scheme.

If the manufacturer retains all the liability of warranty and service then no other organisation should be legally able to register their product without their written consent.

The suggestion that "new requirements may be introduced to notify downstream supplies when the registration status of the product changes and providing registration documentation at each step of the supply chain" (page 22) is seemingly a very simple statement.

The administration and cost requirement of this “simple” requirement has not been explored and no information has been provided in the discussion paper on what would serve as notification. The complexity of this proposed requirement is not understood within WELS. It would require the rewriting of complex stock management systems and invoicing frameworks. It could see customers receiving advice on products they no longer have in stock; it could require manufacturers using manual stock systems to put in place arrangements to ensure their ability to be able to comply at a cost more than their participation in in WELS.

InkWELS Feb 2012 asked for feedback on:

- Is the definition of a model as 'what is in the database now as a model' workable for you?

  No, because WELS administration has difficulty articulating a definition of a model and Industry cannot provide an open book arrangement, open for interpretation, without definitions against which products/models can be measured.

- Do you accept the proposal that further clarity regarding the definition of a model be tasked to the Standards Australia committee WS-032 during the first year of the new arrangements?

  PPI Group advises that the current definitions within AS6400 meet current needs and should be accepted by WELS administration.

- Do you support a tiered registration fee, where an annual registration fee is charged and linked only to the number of models registered?

  No, this increases complexity into what could and should be a simple license fee for participation which is paid annually.

- If you support such a fee arrangement, do you support pro-rata crediting of existing fees, and the consequent higher fees that result?

  PPI Group believes that if any funding model other than the simple 1 annual license fee, based on number of participants divided in $1.48 million, then the new fee structure should not apply under the contractual obligation WELS entered into when products were registered and reregistered for a 5 year period until the end of that 5 year period.

PPI Group is disturbed at many of the proposals contained in the Discussion Paper and urges that further thought, debate and discussion occur before any changes are implemented.