



Australian Government
Department of Climate Change
and Energy Efficiency

Compliance, Enforcement & Reporting

Shane Holt, 17 October 2011



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Compliance & enforcement under GEMS

- A national Regulator for all registration, compliance and enforcement activity
- A broader definition of supply
- Most offences can be dealt with either as:
 - Civil penalty provisions - have to be proven on the balance of probabilities, or
 - Criminal offences (which carry greater consequences) - have to be proven beyond reasonable doubt
- Provision of sales data, by model number, on a national market basis



A National Regulator

- Increased uniformity
 - Fees for registrations
 - Treatment of requests & determinations
- Regulator will utilise State and Territory expertise and develop registration and compliance expertise in the Commonwealth Government
- Regulator will be housed in the Department of Climate Change, appointed by the Minister



Supplying goods

- Supply = ‘supply’ or ‘offer to supply’
- Also an offence to make commercial use of non-compliant products
 - covers companies that import (or manufacture) products for use in their own commercial operations



Commercial use

- Applies where there is no supply event in Australia – i.e. a business directly imports or manufactures a product for its own business use
- Products must be registered and must comply with GEMS requirements when they are installed for use
- If a product is registered and compliant at this point, there is no requirement to change the product if standards change



Enforcement measures

- Under the GEMS Act the range of penalties and enforcement measures that apply to offences include:
 - Suspension and cancellation of registrations
 - Infringement notices
 - Civil and criminal penalties (fines)
 - Injunctions to put a stop to non-compliant activity
 - Enforceable undertakings – agreements to rectify an alleged wrong and compensate consumers and the environment



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Penalty Levels

One penalty unit currently equals \$110.00

■ Category A Products:

- Infringement notice for an individual: \$660
- Infringement notice for a corporation: \$3,300
- Civil/criminal penalty for an individual: \$6,600
- Civil/criminal penalty for a corporation: \$33,000

■ Category B Products:

- Infringement notice for an individual: \$1,320
- Infringement notice for a corporation: \$6,600
- Civil/criminal penalty for an individual: \$13,200
- Civil/criminal penalty for a corporation: \$66,000

- Penalties are per offence but the Regulator may develop rules where multiple offences apply



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Inspections

- Inspectors have powers to monitor compliance with the Act and investigate possible breaches
- Powers cover entry and search of GEMS premises
 - and the taking of evidence for alleged contraventions
- In line with Commonwealth Criminal Law Guide
- Inspectors will be given an identity card



Reporting

- The Regulator can publicise contraventions such as:
 - The name of any ‘person’ who has been issued with or paid an infringement notice; and
 - The name of any ‘person’ who has had their registration suspended or cancelled

