



## E3 Compliance Conference – Sydney October 17, 2011

### MEETING SUMMARY

#### Objectives

Around 80 industry participants and government officials from Australia and New Zealand attended the first ever energy efficiency compliance conference in Australia hosted by the Equipment Energy Efficiency Program (E3).

Held in Sydney on 17 October 2011, the conference provided an opportunity for participants to discuss and comment on changes to compliance and enforcement practices relating to energy efficiency regulations including under the proposed Greenhouse and Energy Minimum Standards (GEMS) legislation.

In addition to an update on the progress of GEMS, participants discussed recent labelling and registration compliance survey activities and the monitoring priorities for the next year, as well as the results of verification testing activity. Participants were also invited to workshop and influence a range of new compliance and enforcement initiatives designed for implementation over the next financial year.

Participants gained valuable insights from the United Kingdom (UK) and Europe from Richard Frewin, the National Enforcement Manager for the National Measurement Office (NMO), UK. In 2009, the NMO was appointed as the single market surveillance authority for appliance and equipment energy efficiency regulation in the UK. Since responsibility for ensuring compliance before this date had resided in over one hundred local government regulatory authorities, the UK experience in establishing the legal and administrative basis for a single enforcement authority are very relevant to Australia as it seeks to introduce the national Greenhouse and Energy Minimum Standards (GEMS) legislation.

The conference agenda is at Attachment A and all presentations and this meeting summary are available from the E3 website at [www.energyrating.gov.au](http://www.energyrating.gov.au).

#### Proceedings

The Conference began with a presentation by Glenn Evans, CEO of the Australian Refrigeration Council on surveys into how well stores display energy labels for whitegoods, air conditioners and televisions conducted since 2009. It was generally felt that, because of the high compliance rates found throughout Australia, large labelling surveys are no longer warranted on established products in the near future. Instead the focus should be on newly labelled products and checks to ensure the diverse range of regulated products meet mandatory registration requirements. With the growth of online facilities, monitoring should also be extended to cover products offered for sale online.

A report on the first 1,000 check tests by Simone Tiele from the Department of Climate Change and Energy Efficiency (DCCEE) recognised that future priorities needed to include regulated products that were poorly represented in previous tests. The results of the 75 check tests conducted in the first half of 2011 reveals that compliance rates appear to have risen, particularly for air conditioners. The inclusion of televisions and set-top boxes for the first time also demonstrates progress towards an expansion of the check testing program. However, this latest analysis highlights the risks to the E3 Program posed by the increasing use of laboratories used to support the registration of products that have no previous history in Australia. Conference participants offered several options for tackling this issue, including the use of accredited laboratories and 'round robin' tests, in addition to the proposal put forward by DCCEE to publicly identify test laboratories that supported claims by suppliers found to be incorrect.



E3 Consultant, Mark Ellis, provided a comparison of compliance results in Australia for labelling display surveys and verification tests conducted with selected examples found in Europe and the United States. The results for labelling display suggest that countries that invest in monitoring achieve higher compliance rates compared to those where monitoring is sporadic or lacking. It is less easy to compare the results for verification tests due to differences in sampling and the type of tests reported, however there is still much that can be learnt by developing closer links amongst regulators. Sharing ways to undertake risk assessments, for example, can help us to better target products most likely to be non-compliant, which will cut testing costs. The threat that regulators from different countries might act in a coordinated fashion will also help to raise compliance rates amongst global suppliers.

The proposed new Greenhouse and Energy Minimum Standards (GEMS) legislation in Australia was the subject of the next series of presentations, together with the compliance and enforcement activities undertaken in New Zealand. Outlining the structure of GEMS, Kane Preston-Stanley and Shane Holt described the main changes involved, including the role of the national regulator, the potential offences, changes in scope and new registration requirements. They spoke further about the compliance and enforcement provisions within the legislation, including powers of inspectors and reporting obligations, and clarified transitional arrangements.

Conference participants were most keen to see improvements in the time taken to approve product registrations, making suggestions on how to automate the process and grant 'interim' acceptance. Questions were raised on whether the on-line registration constituted a formal record of registration and could replace the paper-based form. Industry also noted that reports from check tests should be more transparent to enable suppliers to better determine how tests have been conducted. With regard to the Administrative Guidelines, it was noted that these are likely to be replaced by a shorter version appropriate to the new GEMS legislation.

Eddie Thompson from the Energy Efficiency and Conservation Authority (EECA) in New Zealand, and later Terry Collins, Manager Products at EECA, outlined their enforcement policy that is based on matching an appropriate level of response to the transgression and attitude of the company concerned. They described several new approaches to market surveillance, including monitoring tender documents for large projects that are likely to involve the use of transformers, and using the New Zealand equivalent of eBay (TradeMe) to identify private sales of regulated appliances. In the discussion that followed, participants were advised that DCCEE is currently investigating whether motors can be electronically tagged so that they can be identified even when embedded in other equipment, providing another example of innovative approaches that may assist compliance efforts.

Panellists Ian McNicol (Sustainability Victoria), Eddie Thompson (EECA) and Mark Ellis agreed that products should be selected for check testing on the basis of their likelihood of failure, the scale of the potential impact on greenhouse savings and whether they expand the coverage to all regulated categories of products. Allocating the budget to each of these objectives was suggested as an initial step before identifying individual models for testing. Brands, models and testing facilities with either a history of low compliance, or a lack of history, were considered important selection criteria. Industry generally supported the proposal to communicate the reasons for selecting individual models to suppliers, and recognise that suppliers can play an important role in providing evidence of non-compliance amongst competitor products.

Richard Frewin remarked that it was a healthy sign that so many of the key industry associations and leading companies were present at the Conference as it indicated a willingness to participate in a dialogue with the government on compliance issues. Richard drew attention to the similarities between the UK and Australian compliance system, including the risk-based approach to enforcement used in both countries. However, he noted that 'naming and shaming' had not been a powerful enforcement tool in Europe. The model used in the UK places emphasis on the regulator taking an active role in assisting businesses reach greater compliance through Business Improvement Plans. On a practical level, the NMO has developed a capacity to undertake simple in-house screen testing to provide an indication of performance at low cost.



Developing relationships with individual companies was a theme picked up in the final panel session on future priorities for compliance and enforcement activities, featuring panellists Richard Frewin (NMO), Terry Collins (EECA) and Simone Tiele (DCCEE). Getting closer to the regulated business can assist regulators to provide proportionate responses depending on the company's attitude towards meeting their obligations. The expanded use of border authorities to advise importers of local MEPS and labelling requirements should also be investigated, as it appears to have worked well for lighting products.

Communications play a vital role in an effective compliance regime, according to the final presentation by Mark Ellis. Not only does the public reporting of the results of compliance and enforcement activities help to elevate the perceived risk that transgressions will get detected and penalised, but timely communication with firms suspected of non-compliance can also encourage corrective action before too much damage is done. In all cases, communication needs to be regular and sustained in order to be effective. Although E3 currently uses a number of channels, future challenges include how to better communicate with overseas stakeholders and the option of providing translated materials that explain the compliance regime in Australia is worthy of exploration. Conference participants also suggested the use of overseas trade and industry groups, and their trade literature, to reach offshore suppliers and testing facilities.

Closing the Conference, Shane Holt thanked all participants for a stimulating day that had yielded many useful ideas, and expressed the hope that this forum dedicated to compliance and enforcement issues would become a regular event.

## Outcomes

Conference participants agreed that E3 will:

1. Release the draft report on proposed Selection Criteria report to industry for comment prior to it being finalised.
2. Prepare a draft enforcement policy for GEMS, intended to replace the current Administrative Guidelines. This will be circulated for comment in 2012.
3. Focus future survey activity on the monitoring of compliance with registration requirements, including examination of on-line sales facilities.
4. Target communication efforts at suppliers, retailers and laboratories that represent the highest risk to the objectives of the E3 Program.
5. Investigate the further use of import/border controls where appropriate, and the electronic tagging of products.
6. Pursue closer co-operation between Australian and overseas governments on compliance and enforcement matters.
7. Undertake further round robin tests of products between both Australian and international laboratories.
8. Examine the feasibility and cost effectiveness of introducing simple screen tests for some products prior to moving to full stage 1 testing.
9. Discuss the format and information provided by stage 1 and stage 2 test reports with industry associations.
10. Examine how best to assist internet retailers (such as eBay) to educate their customers regarding energy efficiency regulatory requirements.
11. Confirm whether industry wishes an ongoing dialogue about compliance and enforcement activities, either through holding a similar event on a yearly basis or some other process.



## Attachment A: Agenda

Time	Topic	Presenters
8.00am	Registration	
9.00am	Welcome and introduction	<i>Shane Holt Director, Appliance Energy Efficiency, DCCEE</i>
	<b>Compliance Results</b>	<i>Shane Holt – MC</i>
9.15am	Store survey results	<i>Glenn Evans C.E.O. Australian Refrigeration Council</i>
9.35am	The history of check testing and what it tells us	<i>Simone Tiele Appliance Energy Efficiency, DCCEE</i>
9.55am	How does compliance in Australia compare with other jurisdictions?	<i>Mark Ellis Mark Ellis &amp; Associates</i>
10.15am	<i>Questions</i>	
	<b>Compliance and enforcement under the Greenhouse and Energy Minimum Standards (GEMS) legislation</b>	<i>Shane Holt – MC</i>
11.00am	Overview & update	<i>Kane Preston-Stanley GEMS Legislation Taskforce, DCCEE</i>
11.30am	Current & proposed enforcement and reporting processes	<i>Shane Holt</i>
12.00pm	Compliance and enforcement in New Zealand	<i>Eddie Thompson Energy Efficiency &amp; Conservation Authority, New Zealand (EECA)</i>
12.30pm	Questions	
2.00pm	<b>Ensuring compliance in the UK: achievements and challenges</b>	<i>Richard Frewin Director of Enforcement, National Measurement Office, UK Market Surveillance Authority</i>
	Questions	
3.00pm	<b>Participatory workshops to set future directions (Moderated sessions)</b>	<i>Shane Holt - MC</i>
	Revised selection criteria	<i>Ian McNicol, Sustainability Victoria, Colin Doyle, Consumer Electronics Suppliers' Association, Eddie Thompson, Mark Ellis</i>
4:00pm	Priorities for compliance and enforcement	<i>Terry Collins, Manager Products, EECA Richard Frewin, Simone Tiele</i>
4:30pm	Proposed reporting of compliance results	<i>Mark Ellis</i>
4.50pm	Closing Statements	<i>Shane Holt</i>
5:00pm	<i>Close</i>	



## Attachment B: Conference Speakers

Name	Organisation	Area of Expertise
Richard Frewin	National Measurement Office (UK)	Richard is the Manager of Enforcement at the National Measurement Office (NMO), which is an Executive Agency of the Department for Business, Innovation and Skills, UK Government.
Shane Holt Simone Tiele Kane Preston-Stanley	Department of Climate Change and Energy Efficiency (DCCEE), Australian Government	Shane is the DCCEE Director managing a team with responsibility for compliance and enforcement activities in Australia related to the E3 Program. Simone Tiele works within this compliance team.  Kane works in the DCCEE Energy Efficiency Division actively involved in drafting the GEMS legislation.
Glenn Evans	C.E.O. Australian Refrigeration Council Ltd (ARC)	The ARC was formed to host the national RAC licence scheme that regulates the use of fluorocarbon based refrigerant. Since 2009 the ARC has been contracted to the DCCEE to investigate, survey and report on compliance with energy efficiency regulations.
Terry Collins Eddie Thompson	Energy Efficiency and Conservation Authority (EECA), New Zealand Government	Terry is the Manager of the Products Group at EECA, and also chairs the APEC working group on energy efficiency and conservation.  EECA operates its own compliance and enforcement activities under the E3 Program, which is managed by Eddie.
Colin Doyle	Consumer Electronics Suppliers' Association (CESA)	CESA represents suppliers of consumer electrical and electronic products in dealings with the E3 Program. Colin is CESA's Technical Director and has a long association with the E3 Program.
Ian McNicol	Sustainability Victoria	Ian represents Sustainability Victoria on the E3 Committee that coordinates regulatory energy efficiency activities between the Federal, State and Territory governments.
Mark Ellis	Mark Ellis & Associates	Mark is a private consultant to the E3 Program and has organised several international conferences on compliance issues relating to energy efficiency programs. He has also undertaken surveys of compliance regimes used in different countries and authored a guide to best practice in monitoring, verification and enforcement.



## Attachment C: Conference Participants

	NAME	ORGANISATION
	Steve Anderson	AREMA
	John Ashes	CHOICE
	Andrew Baghurst	Caltest
	Kenneth Ball	Mitsubishi Heavy Industries Air-Conditioners Australia, Pty. Ltd.
	Paul Barron	HPM Legrand
	Rob Beggs	Daikin Australia
	Dora Bettridge	Vipac Engineers & Scientists
	Rodney Brutlag	Gas Appliance Manufacturers Association of Australia
	Bernie Bugdalski	Fujitsu General (Aust.) Pty Limited
	David Buswell	Office of Energy, WA
	Peter Carlin	Andi-Co Australia Pty Ltd
	Peter Cashel	Fujitsu General (Aust.) Pty limited
	Lyn Chapman	Dept of Sustainability, Environment, Water, Population & Communities
	Kwing Chey	Toshiba (Australia) Pty Ltd.
	Terry Collins	Energy Efficiency & Conservation Authority, New Zealand
	Jim Corbett	DTEI (SA)
	Jeff Coyle	Kaeser Compressors Australia Pty Ltd
	Ian Cowling	Queensland University of Technology
	Andrew Creek	SIT Gas Controls
	David Crossley	Australian Industry Group
	Ryan Currin	SGS AUSTRALIA PTY LTD
	Bryan Douglas	Lighting Council Australia
	Colin Doyle	Consumer Electronics Suppliers' Association
	Keith Edwards	Temperzone NZ
	Mark Ellis	Mark Ellis & Associates
	Glenn Evans	C.E.O., Australian Refrigeration Council
	Paul Fan	Electrolux Home Products Pty Ltd
	Gary Flanagan	Grundfos Pumps
	Terry Fogarty	Fisher & Paykel
	Terence Fonseca	SGS Australia Pty Ltd
	Ian Forte	Electrolux Home Products Pty Ltd
	Alan Frettingham	Delonghi Australia Pty Ltd
	Richard Frewin	National Measurement Office, UK Market Surveillance Authority
	Cherie Gregoire	Dept of Employment, Economic Development & Innovation
	Michael Grubert	Energy Safe Victoria
	David Harris	Sony Australia & New Zealand
	Sheldon Harvey	SGS Australia Pty Ltd
	Shane Holt	Department of Climate Change & Energy Efficiency
	Rafiqul Islam	Austral Refrigeration Pty Ltd
	David Jongeneel	Dept of Sustainability, Environment, Water, Population & Communities
	Nat Krishnan	Toshiba International Corporation Pty Ltd
	John Lal	Canon Australia
	Mark Lanagan	BSH (Bosch and Siemens) Home Appliances
	Kevin Lane	Kevin Lane (Oxford) Ltd
	Alan Law	Rheem Australia Pty Limited
	Dino Li	Toshiba International Corp.
	Lucinda McIntyre	Department of Climate Change & Energy Efficiency
	Ian McNicol	Sustainability Victoria
	Michael Mecham	Harvey Norman
	Theo Michael	Vipac Engineers & Scientists Ltd
	Robert Mundy	Actron Air
	Tim O'Keefe	Australian Digital Testing
	Paul O'Shea	Sanden International Aust Pty Ltd
	Mark Padwick	Sanden International Aust Pty Ltd
	Stuart Parker	LG Electronics Australia
	Mark Peristy	CSIRO
	Greg Piggott	MTA Australia



Kane	Preston-Stanley	Department of Climate Change & Energy Efficiency
Jan	Proos	Eurolinx Pty Ltd
Mark	Raicevich	Emerson Network Power Australia & New Zealand
Brian	Richardson	ESO, Queensland Government
Vida	Rozite	International Energy Agency, France
Keith	Sanders	Pump Industry Australia
Shailesh	Sharma	ABB Australia Pty Limited
Leonie	Simart	Vintec Australia Pty Ltd
Melanie	Slade	Department of Climate Change & Energy Efficiency
Matthew	Slater	SAI Global
Gordon	Slimmon	Qualsure Consultants
Michael	Smith	Vipac Engineers & Scientists
John	Taylor	Mitsubishi Electric Australia Pty Ltd
Ken	Thompson	Panasonic Australia
Eddie	Thompson	Energy Efficiency & Conservation Authority, New Zealand
Simone	Tiele	Department of Climate Change & Energy Efficiency
Hugh	Wakeham	Wilson Industries
Ron	Wills	Samsung Electronics Australia Pty Ltd
Les	Winton	WSRS
Peter	Wong	Black & White Engineering Solutions Pty Ltd
Robert	Wooley	Sharp Corporation of Australia Pty Ltd
Sharon	Xie	Tempo (AUST) Pty Ltd
Darren	Yu	Actron Controls Pty Ltd

