

6 June 2025

**Productivity Commission
Level 8, Two Melbourne Quarter
697 Collins Street
Docklands Vic 3008, Australia**

Response to request for submissions on the [National Competition Policy analysis 2025](#); ‘Analysis and modelling to support continued progress on reform as part of a revitalised National Competition Policy’

Dear Productivity Commission,

Thank you for the invitation to provide a response to the above review. Our submission is confined to Information request 2, ‘International Standards’. We note that while the title of this information request pertains to ‘standards’, the specific questions appropriately also have regard to conformance. Our submission covers both standards and conformance, within Information request 2.

In the absence of conformance, there can be no enforcement of standards, whether at the ‘first-party’ (self-audit, self-checking, etc), ‘second-party’ (‘supplier audit’, ‘customer audit’, ‘vendor assurance’, etc), or ‘third-party’ (independent audit, impartial audit, etc) level. It is therefore apt and appropriate that Information request 2 included mention of conformance, and the link between standards, conformance, and regulation. Our main points are summarised below. Further details on the basis of these points are provided in [Attachment A](#) to this letter.

Effective regulation and productivity gains rely on an effective interaction of standards and conformance. Conformance infrastructure in Australia and New Zealand is mature, internationally aligned, and continually evolving to support innovation and market access. Unlike law or regulations, the existence of a standard *per se* makes no automatic burden or negative impact on productivity. Where standards or schemes are invoked in laws or regulations, these have passed Regulatory Impact Statements and legislative drafting norms for proprietary standards regarding justification and access costs.

Greater harmonisation with international standards is occurring and supported by JASANZ and other members of the Australian and New Zealand technical infrastructure, but further coordination and resourcing could strengthen outcomes. The six largest trade jurisdictions for Australia: China, Japan, South Korea, India, EU, and USA are all active users of ISO and IEC international standards, as well as domestic National Standards produced by their corresponding National Committees.

Given domestic standards are often incorporating in whole or part by international standards and schemes used in Australia, it is not clear what other international standards or conformance options are present in these jurisdictions that Australia is (by implication) not recognising. National Standards in Australia often are developed in conjunction with, identically adopted from, or subsequently expanded into, international standards. Both national and international standards are readily incorporated into

Joint Accreditation System of Australia and New Zealand

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business, administrative and regulatory mechanisms for assurance through conformity assessment schemes. Due to their flexibility and ability to be updated readily, the application of schemes and standards are a net positive contributor to productivity (and innovation).

The implied premise of this review are: Mandatory compliance with standards is common; Goods and services are generally needed to be demonstrated as conforming to national or international standards, as part of pre-market approval/authorisation; And, standards contribute to costs and imposts, and have the general relationship to productivity of impedance. None of these implicit contentions are true in Australia at the present time.

Practical reforms should focus on awareness, access to standards, and targeted support for national infrastructure, rather than wholesale replacement or automatic adoption of international standards.

We suggest that in regards to standards, conformance and productivity, the most interesting question is 'what is absent?' in industries and activities that are ambling along with limited market signals of performance. The specific industry sectors of e-waste, electrical safety schemes, and cybersecurity are identified as candidates for active investment in standards and conformance solutions, in order to drive productivity gains. There is also a promising new requirements standard, specifically for innovation, ISO 56001:2024 '*Innovation management system – Requirements*', that coupled with an effective conformity assessment scheme(s) and funding schemes, is an ideal candidate for actively driving productivity gains for Australian businesses.

Thank you for the opportunity to provide a submission, and we commend the Productivity Commission's consideration of standards, conformance and their link to productivity. We will provide more detail on the above points in subsequent stages of the Review.

Yours Sincerely,

Matthew Pitt (*electronically signed*)

Technical Manager, JASANZ

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See **Attachment A: Detailed discussion of standards, conformance and productivity**, over page.

Attachment A: Detailed discussion of standards, conformance and productivity

Previous reviews and inquiries on the relationship between standards, conformance and productivity

Various Productivity Commission reviews and reports have included recommendations to establish conformity assessment schemes, whilst not using that exact phrase. In so doing, the Productivity Commission itself has appropriately identified conformity assessment (including requirements specified in standards) and standardisation are conducive to productivity, including mitigating market failure. However, it is notable that the Commission has conducted at least one review that specifically considered ‘standards’ and conformance: ‘*Standard Setting and Laboratory Accreditation*’ (2006).¹

‘Key points’ recommendations on the standards component are worth revisiting in the present day:

- *Standards Australia should make the following improvements:*
 - *systematically consider costs and benefits before developing or revising a standard, and publish reasons for such decisions*
 - *ensure more balanced stakeholder representation*
 - *reduce barriers to volunteer and public participation*
 - *improve accessibility, transparency and timeliness, including an improved appeals and complaints mechanism.*
- *All government bodies should rigorously analyse impacts before making a standard mandatory by way of regulation and ensure it is the minimum necessary to achieve the policy objective. Each Australian Government agency should also provide the funding necessary to ensure free or low cost access to such standards, including Australian Standards.*
- *The Australian Government should continue to support Standards Australia’s role in facilitating international standardisation activities.*
- *The Standards Accreditation Board should be renamed the Accreditation Board for Australian Standards to better reflect its role and should be recognised by the Australian Government.*

The attention of the Productivity Commission is also drawn to the current Department of Finance publication, the ‘*Best Practice Guidance Adopting risk assessments, standards and conformity assessment procedures in regulation*’. The current version of this document publicly available is July 2016², however a 2025 update incorporating global trends in public policy, standards and conformance is imminent and can be provided by JASANZ (pending Department of Treasury permission) to the Productivity Commission for relevance to the review.

¹ <https://www.pc.gov.au/inquiries/completed/standards/report/overview.pdf>

² <https://www.industry.gov.au/trade/australias-standards-and-conformance-infrastructure>,

Another useful existing document for the Productivity Commission's consideration is the *'Conformance Policy And Infrastructure Review'. Issues and Opportunities Paper* (2018)³, published by the New Zealand Ministry of Business Innovation and Employment (MBIE). Notable points for the Commission's review are outlined under 'Areas for further work an improvement' (page 3), that includes statements such as:

- *'There are shortcomings with some regulatory use of the conformance infrastructure. Issues of role clarity and variation in regulatory design and practice can lead to poor outcomes in some regulatory schemes';*
- *'Conformity assessments are creating delays for some businesses'... 'There is also potentially some unmet demand for conformity assessments';*
- *'Businesses and conformity assessment bodies are concerned about the reliability of overseas conformity assessments for some products imported into New Zealand'.*

We encourage the Productivity Commission to remain in close contact with its counterparts in New Zealand. Noting that the New Zealand Productivity Commission was wound-up in 2024, the best contact point for productivity, standards and conformance is MBIE, which is the New Zealand Government Ministry that oversees JASANZ (*with the Department of Industry, Science and Resources being the Australian Government Department overseeing JASANZ*).

The Joint Accreditation System of Australia and New Zealand (JASANZ) was established by a Treaty of the Australian and New Zealand Governments in 1991, which was updated in 1998⁴. The Treaty states that the "Australian Minister" for industry and the "New Zealand Minister" for business oversee appointments to the Governing Board of JASANZ, and may prescribe 'matters' to be addressed in the annual statement of corporate intent (SCI) produced by JASANZ.

This function neatly codifies the accountability of *accredited conformity assessment* to government (and government policy), which itself is a requirement for 'accreditation bodies' in the international standard for accreditation, ISO/IEC 17011 *'Conformity assessment — Requirements for accreditation bodies accrediting conformity assessment bodies'*.⁵

The 1991 and 1998 Treaty included the stated objective that: *'The objective of the Parties is to strengthen the trading relationship between the Parties and between the Parties and other countries....'* The 1998 Treaty included a subclause to this Article that the system is to: *'give users in Australia and New Zealand confidence that goods and services certified by accredited bodies meet established standards'*.

These neatly describe the inseparable relationship between 'standards' and 'conformance'.

JASANZ is proud to be a member of the Technical Infrastructure for standards and conformance in New Zealand and Australia, together with: International Accreditation New Zealand (IANZ) and Standards New Zealand in New Zealand; And, Standards Australia, National Association of Testing

³ www.mbie.govt.nz/assets/8cba220a68/conformance-policy-and-infrastructure-review-issues-and-opportunities-paper.pdf

⁴ www.info.dfat.gov.au/Info/Treaties/treaties.nsf/AllDocIDs/05A3B338D458F5AFCA256B920001E5E6

⁵ <https://www.iso.org/standard/67198.html>

Authorities (NATA), and National Measurement Institute (NMI) in Australia⁶. Our standards colleagues are far more able to address the standards specific component of this review, and it is not the role of JASANZ to speak to matters such as laboratory testing and accreditation, which is the domain of our colleagues in IANZ and NATA.

With those equivocations aside, it is true from a macroeconomic perspective that conformance is best understood in its totality, regardless of the 'object of conformity' or 'programme of conformity assessment'. That is, it is best to consider the problem or opportunity as per any public policy question or business objective first, and then what tools are available to help meet that opportunity or mitigate the risk, second. Conformity assessment as linked to government authority is never something that should exist for its own sake.

Conformity assessment 'standards' (and other norms') as a distinct subset of national and international 'standards'

Laboratory testing is directly linked to product certification in many cases; Management system auditing often entails inspection, etc. The standards and conformance infrastructure of Australia (and New Zealand, and globally) is best considered and used in its collective form, as interoperating, collective that for historical, geographical, and jurisdictional reasons are constituted in distinct legal entities. The composition of bodies overseeing standards and conformance in any given country certain can and is comprised in alternative forms, but the interaction between standards and conformance is in practice inseparable. This is clear by the fact that the fundamental (or foundational) standards for conformity **assessment relied on by governments are themselves produced by National and International Standards Bodies**. That is, those produced by the International Organization for Standardisation (ISO⁷, established 1947), the International Electrotechnical Commission (IEC⁸, established 1906), and to some extent the International Telecommunications Union (ITU⁹, established 1865) ultimately determine government authorised conformity assessment activities that are explicitly recognised by the World Trade Organization 'Law on Standardization'¹⁰ as 'International organizations for standardization' (Article 2). Article 2 also specifically mentions one other form of standards, that are worth noting given implicit premises of this review (underutilised or excluded international standards): 'European organizations for standardization'. These 'include' the 'European Committee for Standardization (CEN)', 'European Committee for Electro-technical Standardization (CENELEC)', and 'European Telecommunication Standards Institute (ETSI)'. These are often expressed as 'EN' or 'ETSI' designated standards, and frequently appear in European Commission law.

To be clear, the norms of these 'European organizations for standardization' are often identically adopted or adopted with slight modification by the ISO and IEC. This reflects the historical fact that modern conformity assessment internationally has its origins in European conformity assessment. There are also increasing examples where the IEC Conformity Assessment Systems¹¹ incorporate

⁶ www.atia.org.au

⁷ www.iso.org

⁸ <https://iec.ch>

⁹ <https://www.itu.int>

¹⁰ www.wto.org/english/thewto_e/acc_e/cgr_e/wtaccgr27a3_leg_11.pdf

¹¹ See 'agreement group' and note to this elsewhere in this submission.

ETSI standards, and official policy positions of the IEC Conformity Assessment Board (IEC CAB) is that it is open to incorporating requirements standards from other reputable sources (other than ISO, IEC, and EN) on a case-by-case basis.

The other jurisdiction of note is North America (specifically, the United States of America), that has close use of international standards for conformity assessment especially those of the ISO and IEC, but also well developed national standards (*under the ISO and IEC regional member American National Standards Institute, ANSI*¹², *the USA counterpart to Standards Australia*), that receive the designation 'ANS' (American National Standard). ASTM International publish 'ASTM' designated standards. Again, upon close examination many of these are interacting with, or are informed by, or inform ISO and IEC standards.

To somewhat round out (and complicate) the picture, National Standards bodies (like Standards Australia and ANSI) can 'accredit' (or designate) another body to be an 'accredited Standards Development Organisation' ('accredited SDO')¹³. This obligates the organisation to apply the processes and norms for national standards development, including balanced range of stakeholder input, transparency and consensus, and allows the resulting standards to elect to use the national standard designation or leave their own designation if preferred.

An example is Standards Australia's accreditation of the Pharmacy Guild of Australia, as an SDO for the for the community pharmacy sector¹⁴. A notable standard under this designation is **AS 85000**, first produced in 2011, and updated by stakeholder consensus in 2017 and 2024. AS 85000 certification through the conformity assessment scheme the Quality Care Pharmacy Program (QCCP) was explicitly recognised in the public incentive and reward payment scheme (*funding scheme*) with the Department of Health and Aged Care, the Community Pharmacy Agreement¹⁵, which is in its current 8th edition (see clause 8.1.5 for explicit reference of AS 85000 and the QCCP). The Community Pharmacy Agreement has various public policy objectives, but a simple notable example is to ensure the adequate supply of vital medicines in regional and remote Australia, which under purely market driven practices would be scarce or entirely unavailable.

QCCP is a quintessential (and highly successful) example of the possible interactions between funding schemes and conformity assessment schemes (and Australian Standards), that are adaptable, regularly reviewed, and are hard to see as causing obvious reductions in productivity and by all available evidence are lifting the productivity of Australia. For full disclosure, it should be noted as a disclaimer that this scheme is 'endorsed' (adopted) by JASANZ as being suitable to be used in connection with its accreditation symbol¹⁶, and the Pharmacy Guild of Australia is a JASANZ accredited certification body¹⁷.

¹² www.ansi.org/

¹³ See e.g. Standards Australia SDO accreditation process (), and ANSI SDO process (<https://ansi.org/american-national-standards/info-for-standards-developers/accreditation>)

¹⁴ www.guild.org.au/about-us/sdo

¹⁵ www.guild.org.au/programs/8cpa

¹⁶ <https://register.jasanz.org/endorsed-schemes>

¹⁷ <https://register.jasanz.org/accredited-bodies>

Another example of an industry standard (*which started as a Government Standard, developed by the United States Environmental Protection Agency*) that is produced by an industry group which is an Accredited Standards Development Organisation is the SERI R2 Standard, maintained by the Sustainable Electronics Recycling Initiative (SERI), and used as the certification standard in its associated scheme the 'SERI R2 Scheme'¹⁸. Following evidence of market demand, and a rigorous endorsement and evaluation process that included interviews with industry and government in Australia, this . It is notable that the AS 5377:2022 update by Standards Australia included regard to the SERI R2 standard, and the Standards Australia Technical Committee (EV-019, E-waste) included experts in the R2. Furthermore, SERI now recognises conformity assessment evidence for accredited AS 5377 certification (under the Australian Department of Environment E-Waste Scheme¹⁹, which is endorsed (adopted) by JASANZ and was produced through a JASANZ Technical Committee) as being able to contribute to evidence of conformity to the R2 standard. Far from being an exception, this *mutual recognition* (of varying degrees, from partial contribution of evidence all the way up to wholesale acceptance as 'equivalent') is extremely common in the standards and conformance practices globally, as operated within the ISO and IEC conformity assessment frameworks (including nationally in Australia under Standards Australia, as the AU National Committee for ISO and IEC).

This and other situations indicate (albeit are not 'proof') there is no problem of excessive parochialism (isolationism) by JASANZ or other conformance authorities regarding international standards and conformity assessment options in Australia. What may appear to be (*reasonably so, given tendencies of standards and conformance experts to use excessive jargon*) an uncoordinated global assortment of standards and specifications, only a fraction of which are 'Australian Standards', are in fact a more coherent picture. This may sound like a case of 'trust us' and 'nothing to see here', but a point about the technical infrastructure is that is nothing if not self-critical; By design and procedural requirements, it invites persons with different perspectives, interests, and philosophies into committees with the aim of producing a 'consensus' document, which are often consensus standards. 'Consensus' is defined in these frameworks²⁰ as the absence of sustained opposition:

- *'General agreement, characterized by the absence of sustained opposition to substantial issues by any important part of the concerned interests and by a process that involves seeking to take into account the views of all parties concerned and to reconcile any conflicting arguments.'*

To expand upon the AS 5377:2022 situation (with SERI R2 compatibility), an unfortunate element of this situation was the previous version of the Standard was dually adopted by Australia and New Zealand, as AS/NZS 5377:2013. Rather than being a disagreement about its update or unfavourable view of the 2022 update, it is the understanding of JASANZ that the reason for the single adoption was an absence of financial resourcing in New Zealand for this standard, despite E-Waste being identified by the New Zealand Government and industry as high national priority. This unfortunate situation is an example of the need for governments and industry to continue to fund their national Standard

¹⁸ <https://sustainableelectronics.org/r2/>

¹⁹ <https://register.jasanz.org/endorsed-schemes/details/559c3c51-d1d1-e411-a125-005056b2381f>

²⁰ See e.g., IEC Electropedia, www.electropedia.org

Organisations (especially if also ISO and IEC National Committees). While JASANZ is firmly in the conformance side of the quality equation, we duly acknowledge the preeminent importance of well-funded, well governed, national standards bodies and effective standards.

Are there standards and standards for conformity assessment (or other techniques for conformity assessment) that are being underused or excluded (blocked) in Australia?

If there are credible international standards and international conformity assessment solutions that are not being used, by all means the Productivity Commission and other government agencies are encouraged to send them to JASANZ. In any instance, individuals, business, and governments are entirely free to recognise, use, and require any international standards they see fit and any forms of conformity assessment scheme, unless this is precluded by law. As per the previous statement, the time and length requirements for this review do not permit consideration of the current legislated requirements to use national standards (including government standards) and AS/NZS, ISO/IEC standards for conformity assessment.

With these foundational norms for conformity assessment, countries including Australia are freely available to adapt their use through codification in *conformity assessment schemes*, in any form as they see fit, including by selectively using only parts, explicit exclusion, and more commonly (and beneficially) contextualisation (clarification) and ‘supplementation’, as proportionate to the risks or objectives for which the conformity assessment scheme is seeking to address.

That is, it is suggested there are no reputable standards and conformity assessment norms specifically identified by the World Trade Organization that are being blocked or otherwise excluded from use in Australia.

This is artfully articulated²¹ in the guidance of the draft updated ‘Best Practice Guidance’ being developed by Treasury (bolding emphasis added):

- ***‘If mandatory standards are deemed to be the appropriate tool to meet the regulatory objective, then policymakers should aim to use the international standard, where one exists, unless they can demonstrate that the standard is not suitable for the Australian context. Similarly, policymakers should recognise regional, Australian or overseas standards, alongside the international standard, where appropriate. Adopting a new mandatory standard that recognises multiple existing standards will provide businesses with more than one pathway for compliance. This will help reduce barriers to trade, improve market access for businesses, and expand consumer choice. The regulatory design framework and accompanying policy tools aligns with Australia’s obligations under the World Trade Organization and other free trade agreements, and the best practice principles in the Regulatory Policy, Practice & Performance Framework.’***

Space does not permit to further explain that a large component of the work of National Committees – including Standards Australia, is to recognise and adopt international standards identically (*or with appropriate and useful modification for our context*), thus making these ‘National Standards’. This is active work of technical committees, **not** an administrative exercise, as it requires understanding of

²¹ Page 3; See previous reference.

standards nomenclature, industry setting, domestic regulatory context, international obligations, and legal norms which in Australia extend to the states and territories and Commonwealth jurisdictions as a Federation. It also requires monitoring the ISO and IEC for updates to the nationally adopted standards, and acting appropriately to remove dated standards and adopt (if applicable) new versions or entire new series of standards that have surpassed the older forms. That is to say, it would be unwise and unfair to merely imply that automatic adoption of every ISO and IEC standard (or any international standard) as an 'Australian Standard' (and thus gaining privilege positions in law, and procurement policy) would be of any benefit of all to productivity, and in fact could be detrimental to productivity, not to mention potentially dangerous.

Without government recognition of standards bodies (whether 'requirements standards' or 'standards for conformity assessment'), a policy of '*recognising international standards*' by default would leave Australia (and the Australian public and government) behold to any self-appointed 'Standards Developer' that has published a standard in suitably glossy formats, associated glowing publicity, and (potentially paid) proponents arguing their case to peak industry and elected representatives of parliaments.

If new, advanced forms of these are being produced (and there are many such candidates, including digital conformity assessment under the GS1/NATA initiative²² and UN Transparency Protocol²³), they will inevitably be recognised by ISO, IEC, and their National Committees including Standards Australia.

All credible standards and conformance bodies are interested in assisting with 'standardisation'

While standards (and even more so conformance) themselves have detractors regarding effects on productivity (or more simply a perceived effect of '*always increasing cost*'), there are very few critics of 'standardisation'.

The WTO defines in Article 2 of the Law on Standardization defines 'Standardization' as: '*activities aimed at defining provisions for general and multiple use, related to actual or potential problems, for the purpose of achieving the optimum level of orderliness in a given area*'. This Article also contains definition for 'standard' and 'international standard'.

Before venturing further into the reworded question of: '*Are there international standards and international conformity assessment practices that are being prevented from use or under-used in Australia, that could increase productivity?*', it is worth pausing to note that in general, standards and conformance are primarily intended to assist with *standardisation*, and thus assist with:

1. interoperability of processes, systems, goods, and services globally;
2. acting as a sign-post or marker of what optimal approaches are to look like from a 'performance based perspective', without being prescriptive (unless necessary due to e.g. law) on how optimal performance is achieved; *And*
3. identifying and keeping a record of practices or characteristics that are *not acceptable*, or are to be avoided.

²² <https://nata.com.au/supplychain/>

²³ <https://uncefact.github.io/spec-untp/>

Again, few economists or public policy experts would object to these *intentions* of standards and conformance, to assist with standardisation.

It is a reasonable question to ask however of: *'is the current use of standards and conformance fulfilling the intention of the standard and conformance infrastructure in Australia, as of 2025?'*

Submissions in this review will no doubt identify many continued frustrating incompatibilities between goods and services globally: Electric plug types; Charging ports and cables for electronic devices and batteries; Software and computer hardware; Financial accounting and banking services, etc.

These can be considered 'undesirable variation'. Rather than being the result of standards and conformity assessment, it is suggested that both standards and conformity assessment schemes, and even better 'conformity assessment systems', are ideal at reconnecting disparate frameworks and allowing interoperability of *undesirable variation* between physical goods and services globally. Standards can include informative annexes of comparisons, schemes can mandate manufacturers to modify their good before importing to a given jurisdictions. These standards and schemes can then be incorporated into Free Trade Agreements or legislation, and the latter ideally being 'delegated legislation' that can be modified quickly in line with developments in technology and market trends (*as opposed to requiring decisions by parliaments or other legislatures*).

What is the relationship between standards (and conformance) and productivity?

The starting point to note on the question of 'productivity' is many standards are not developed for, nor suitable as, requirements or other compliance activities. That is, many (the majority) are developed for guidance, terminology/nomenclature, principles, exploration of possibilities and even as examples. That is, unlike perhaps the analogy with regulations (useful or considered otherwise), the existence of a standard *per se* makes no difference to costs or productivity in Australia (or New Zealand). While general legal principles in Australia including Procurement Rules²⁴ place an emphasis on (or regard to) 'Australian Standards' and 'International Standards', in practice generous discretion is afforded to decision makers through the use of terms such as the conditional 'if', the permission 'may', the verb 'consider', and the caveat of 'or equivalent'. This is entirely appropriate from an administrative law and common-sense perspective, and from the international trade perspective for technical neutrality principles of the World Trade Organisation (to avoid technical barriers to trade).

From a legal perspective, the practice within legislative drafting policy (starting with the Western Australia Senate Committee) has increasingly been towards removal of 'proprietary standards' (or 'not freely available') from legislation, except where a proponent government agency or industry group will make it freely available. That is, the 'free access to the law' principle.

As described in the Australian Standing Committee on Regulations and Ordinances 2019 'Guideline on incorporation of documents'²⁵:

²⁴ Commonwealth Procurement Rules, 1 July 2024. <https://www.finance.gov.au/government/procurement/commonwealth-procurement-rules>. See especially clauses 10.10 and 10.11.

²⁵ www.aph.gov.au/~media/Committees/Senate/committee/regord_ctte/mon2019/Final%20Monitor%20of%202019.pdf?la=en

- *The issue of access to material incorporated into the law by reference to external documents, such as Australian and international standards, has been one of ongoing concern to Australian parliamentary scrutiny committees. Most recently, the Joint Standing Committee on Delegated Legislation of the Western Australian Parliament has published a detailed report on this issue: see Parliament of Western Australia, Joint Standing Committee on Delegated Legislation, Thirty-Ninth Parliament, Report 84, Access to Australian Standards Adopted in Delegated Legislation (June 2016)*

www.parliament.wa.gov.au/parliament/commit.nsf/all/6BCDA79F24A4225648257E3C001DB33F?opendocument&tab=tab3. This report comprehensively outlines the significant scrutiny concerns associated with the incorporation of material by reference, particularly where the incorporated material is not freely available.

This practice has seen many (most) references to proprietary standards published as Australian Standards, New Zealand Standards, International Organization for Standardization (ISO), and/or International Electrotechnical Commission (IEC) Standards (noting AS/NZS, ISO/IEC, and any combination of the four designations including all four are possible) removed from legislation in Australia and New Zealand. The remaining instances are – by requirements of legislative drafting policy – obligated to be freely available.

Time does not permit a detailed analysis in our submission of all remaining instances of such standards in legislation of Australia's States/Territories and Commonwealth parliaments. Anecdotally and through routine experience however, we would suggest the absolute number of such instances are small, and increasingly if not already done so, being operated at the level of 'delegated legislation' ('subordinate legislation'), in which public servants accountable to elected officials and stakeholder are able to amend or vary the legislation without the need of time and resources required for parliamentary deliberations (although they are generally also amenable by this means, if deemed appropriate by parliaments). That is, are readily able to be adapted if impacting adversely (productivity, profitability, safety, etc) a given industry or economic sector.

In an increasingly small number of cases, legislation still refers to international and Australia standards (including Government standards), as being required to be met, while naming these but often accompanied by the caveats of 'or equivalent'. The consideration of these are within the purview of regulatory impact analysis and government policy, and well outside the scope of this review and the time available for considering the productivity impacts (of government standards). That is to say, it is suggested that the few remaining instances of prescriptive national standards mandated in regulation have been thoroughly reviewed by Regulatory Impact Statements and similar mechanisms, and presumably were found to have a benefit that outweighed their costs.

That is to say, the opening premise of this review (for Information request 2, 'International Standards') is that:

- Requirements for mandatory compliance with standards is common;
- Goods and services are generally needed to be demonstrated as conforming to national or international standards, as part of pre-market approval/authorisation;
- Standards contribute to costs and imposts, and have the general relationship to productivity of impedance;

None of these implicit contentions are true, in Australia (and New Zealand) at the present time.

However, it is true that many standards are specifically designed for use as requirements, in a practice referred to internationally as ‘conformity assessment’, and these may be invoked in a whole range of mechanisms that include business to business contracts, procurement, Free Trade Agreements (e.g. see CHAFTA²⁶ (see Article 6.11[2](e)), which refers to ISO/IEC (ISO CASCO) norms for conformity assessment of standards). Moving away from legislation and to these other forms of imposing a requirement (whether on ones own organisation, or on a supplier/vendor), it is worth considering the relationship between standards/ conformance and productivity.

Do requirements standards (and use in conformance) adversely affect productivity?

Requirements standards are intended to be used for conformance. Or to rephrase, standards with requirements naturally lend themselves to conformance, and in so doing, have an impact (effect) if linked to a conformity assessment activity.

Conformity assessment activities are generally regarded under international norms to always be operating in connection with a ‘conformity assessment scheme’, with this being but one variation of the broader categories of activities referred to as ‘schemes’. The latter term (deriving from the Greek word ‘skhema’) when used as a noun is variously defined, but for the definition relevant to standards and conformity, at its simplest level is ‘an arrangement’. A more expansive definition is: ‘*A plan, a design: a project, an enterprise; a programme of work or action to attain an objective*’²⁷.

Conformity Assessment Schemes are best operated as inputs or outputs for other forms of schemes (especially funding or regulatory approval schemes), and ideally under a coherent policy or strategy. They can be operated under a ‘first-party’ level (e.g., ‘conformity assessment scheme for internal audits of a large organisation by its management), second-party, and third-party level, as per descriptions of these ‘levels’ for conformity assessment earlier in this submission. That is, rather than automatically being unwieldy and costly, a conformity assessment scheme can be (and sometimes should be) extremely small and highly targeted to just a few stakeholders **whom consider it to be useful**.

To gain an insight into the current latest thinking about conformity assessment scheme design, operation, and maintenance, interested readers of the Productivity Commission are encouraged to read the in-progress update to ISO/IEC 17067:2013 (**nationally adopted²⁸ as AS/NZS ISO/IEC 17067:2015**), which is currently publicly available as ISO/IEC DIS 17067:2025 ‘*Conformity assessment — Fundamentals of and guidelines for conformity assessment schemes*’ (‘DIS’ denotes ‘Draft International Standard’)²⁹. This updated draft standard now provides comprehensive guidance on what are the minimum essential features of a ‘conformity assessment scheme’, and explains factors to consider in establishing, maintaining, reviewing, and discontinuing a conformity assessment scheme,

²⁶ Free Trade Agreement Between The Government Of Australia And The Government Of The People’s Republic Of China. See <https://www.dfat.gov.au/sites/default/files/chafta-agreement-text.pdf>

²⁷ Shorter Oxford English Dictionary, Fifth Edition. 2002. Less happily, the negative connotations of scheme are also included in definitions, e.g. ‘derogatory: a selfish, deceitful, or foolish project’.

²⁸ www.standards.org.au/standards-catalogue/standard-details?designation=as-nzs-iso-iec-17067-2015

²⁹ <https://www.iso.org/standard/87597.html>

as part of a ‘scheme lifecycle’ (adapting norms of a ‘product lifecycle’). The only shortcoming of this *guidance standard* from a conformity assessment scheme perspective is that it does not provide guidance on regulatory conformity assessment schemes, consistent with the ISO/IEC policy position that regulatory policy and regulation is the domain of governments, and outside the purview (and jurisdiction) of voluntary international standards. JASANZ (via a ‘mirror’ Technical Committee for ISO/CASCO operated by Standards Australia) is directly contributing to the development of ISO/IEC 17067:202X as a voting member and co-author within the technical committee. This privileged position is only possible due to the voting member status (‘P Status’) of Standards Australia with the ISO, as a National Committee. This situation again demonstrates that domestic standards capacity (via Standards Australia, in our case) is of fundamental importance for capability and influence of conformity assessment (*‘demonstration that specified requirements are fulfilled’*³⁰).

Standards, together with conformity (especially so) are endlessly adaptable and able to form bridges, linkages, comparisons, and interoperability between any sets of expectations and requirements. Rather than representing static barriers to conformance or trade, when used as intended, that are mechanisms to overcome barriers in endless forms such as contracts, policy, guidance, administrative expectations, accredited or ‘agreement group’³¹ conformity assessment schemes.

What is a problem for productivity is technical nihilism, where governments give no sign or indication to their populace about what effective technical solutions look like for a given problem. Where governments do not even seek to contribute to developing technical solutions in the first place, perhaps out of a misguided fear of ‘imposing burdens’.

That is a real barrier to productivity.

This absence of technical leadership represents a missed ‘positive risk’ (an opportunity) to use regulatory theory of a baseline support and guidance for improving industry performance (standards and conformance), that is then accompanied by increasing sanctions and eventual ‘ruinous powers’³² that collectively provide a ‘carrot’ (and instructions on how to cook it), and a ‘stick’.

This discussion paper is asking ‘*what is here?*’ regarding standards and conformance; we would suggest the better question is ‘*what is absent?*’ in industries and activities that are ambling along with limited market signals of performance. That is, industries without an understanding of best practices or means to monitor and measure performance, and without a means to compare approaches and codify interoperability.

Moving to the specific questions asked in the review for ‘*Information request 2*’:

³⁰ ISO/IEC 17000:2020, ‘Conformity assessment – Vocabulary and general principles’, clause 4.1. **Adopted as ‘AS/NZS ISO/IEC 17000:2020’.**

³¹ See e.g. the IEC Conformity Assessment Systems, IECEE, IECRE, IECQ, and IECEx. www.iec.ch/conformity-assessment

³² See e.g. ‘Responsive regulation’, ‘regulatory pyramid’, and ‘pyramid of supports’ by J Braithwaite at <https://johnbraithwaite.com/responsive-regulation>

‘• Are there examples of Commonwealth, state, territory or local government regulation where there should be greater harmonisation with international or overseas standards and related conformity assessments or approvals? What sectors should be prioritised for reform?’

JASANZ, consistent with expectations of Australia and New Zealand, have been working on (are continually working on) conformity assessment schemes that are seeking to harmonise requirements across the jurisdictions of Australia and New Zealand, and promote trans-Tasman inter-operability of goods and services.

The Productivity Commission can view these initiatives under the Statement of Corporate Intent, published at: <https://www.jasanz.org/resources>

Examples of current harmonisation efforts are the:

- E-Waste Scheme for AS/NZS 5377 (and AS 5377 and the SERI R2), described previously in this submission;
- An Australia and New Zealand harmonised Electrical Equipment Certification Scheme as a national, harmonised type testing certification scheme for electrical safety products in Australia and New Zealand. JASANZ has been pursuing this goal (using its own funding, which is self-funding from users of conformity assessment) since 2018. The Australian Competition and Consumer Commission published its review of electrical product safety in Australia³³ in April 2025 and recommended 'harmonised and consistent certification requirements for all jurisdictions' (Recommendation 2). With the ACCC Recommendation 2, JASANZ will be seeking government agency contribution to the costs of completing of an Australian if not trans-Tasman electrical safety scheme. There are current ~10 proprietary electrical safety Schemes, which are endorsed (adopted) by JASANZ and which are recognised in several electrical safety jurisdictions in Australia and New Zealand. JASANZ is actively considering the continued acceptability of these versus contemporary norms for conformity assessment schemes, and the basis for any variations within them.
- DEWR ISMS Scheme³⁴. While not a deliberate harmonisation scheme by design, this conformity assessment scheme owned by the Department of Employment and Workplace Relations, developed in 2021 by a Scheme Technical Committee operated by JASANZ, operates to incorporate cybersecurity standards published by the Australian Signals Directorate (in the Australian Information Security Manual³⁵), which in turn are adapting standards and controls developed by the United States National Institute for Standards and Technology (NIST)³⁶ and incorporating these within the continuous improvement framework and Annex A controls of ISO/IEC 27001 '*Information security, cybersecurity and privacy protection — Information security management systems — Requirements*'³⁷ (adopted as AS/NZS ISO/IEC 27001). Issue 3 of this Scheme is currently being revised under a JASANZ Technical Committee and seeking to drive greater interoperability with internationally harmonised

³³ www.productsafety.gov.au/about-us/product-safety-news/news/review-of-the-regulatory-framework-for-the-safety-of-household-electrical-products

³⁴ <https://register.jasanz.org/endorsed-schemes/details/5903a7c2-0f91-eb11-b1ac-002248152afe>

³⁵ www.cyber.gov.au/resources-business-and-government/essential-cybersecurity/ism

³⁶ www.nist.gov

³⁷ www.iso.org/standard/27001

cybersecurity schemes, including that for ISO/IEC 27001. Globally, there is a general recognition by cybersecurity experts and authorities that more work needs to be done to incentivise (or otherwise motivate and compel) businesses and government to improve their cybersecurity practices and capability.

There are numerous other examples, however at a certain point these commendable efforts face substantial and unavoidable challenges from constitutional powers and rights of states and territories to determine their own legal requirements for many matters, including approvals and applicable laws for much of the goods and services in routine trade.

• *What is the impact of a lack of harmonisation (e.g. on compliance costs for export, import or multinational businesses, product range, prices, quality, competition, innovation and international trade and investment)?*

In general, perhaps not as great as is implied in this question, for reasons that have been explained earlier in this submission; Over time, governments are accountable to the public and industry, and can instigate changes in any unnecessarily burdensome, prescriptive standards and conformance requirements. It is suggested that opportunities for improved productivity by removing remaining examples of these are likely to be far lower than the extent of potential improved productivity for Australia more actively embracing the use of national standards and conformance to incorporate and adopt global practices and develop domestic versions where necessary of standards and conformity assessment schemes, including those comprised within legislation³⁸.

• *What are the barriers to greater harmonisation?*

– *For sectors where regulators can mandate standards by incorporating international standards as in force from time to time or accept overseas conformity assessments and approvals (e.g. road vehicles, therapeutic goods, agricultural and veterinary products, maritime, industrial chemicals and, most recently, consumer products), how is this operating in practice?*

No further comments are made on this question, beyond the earlier examples and general point that as an Accreditation Body established by government, it is the role of parliaments, governments, business and the public (via democratic will) to determine the boundaries of what is covered by legislation including mandatory standards and schemes. The previously mentioned 'Practice Guide' by Treasury is a notable resource in this regard.

³⁸ See for example, the NDIS (Approved Quality Auditors Scheme) Guidelines 2018, an instrument under the NDIS Act 2013, and which is also endorsed (adopted) by JASANZ as suitable for accredited certification. www.legislation.gov.au/F2018N00114/latest/text

- ***Are there any reforms that should be made to Australia's standards and conformance infrastructure to support greater harmonisation while still addressing specific Australian risks and objectives?***
 - ***What measures could support access to international standards incorporated in Australian regulation?***

Without seeking to sound self-serving, we suggest that more active promotion and awareness of standards and conformance options and practices within business and public policy, would positively influence productivity via commercial, administrative and legislative decisions in Australia. Promotion of the aforementioned Guide, and continued refinement of legislative policy regarding the invocation of 'proprietary standards' is encouraged. It is suggested that in the spirit of ensuring 'free access to the law', the 'sign posts' for technical solutions are being removed from legislation and thus leaving the principles and requirements less effective, without the 'foundational supports' of well developed, maintained national and international standards.

/end submission.