

Senate Hearing – Introductory Remarks

Over the past decade or so there has been a clear increase in anecdotal reports about the use of non-conforming products in the building and construction industry.

This is of concern because of the increased risks to safety and other costs associated with lower quality products. In addition, producers that conform with relevant standards and regulations can be at a competitive disadvantage when the price at which competing product is sold reflects lower levels of attention to the quality that is required under Australia's conformance framework.

The accumulation of reports of non-conforming products coincided with the rapid growth of new centers of global production, the period of the high Australian dollar and the greater penetration of imports into many local markets.

In 2013 Ai Group published the ground-breaking report "The quest for a level playing field: The non-conforming building products dilemma". This report found that there are gaps and weaknesses in the building products conformance framework resulting from:

- a. Confusion amongst stakeholders about the responsibilities of regulators and insufficient knowledge of the conformance framework;
- b. Inadequate surveillance, audit checks, testing, enforcement and first party certification;
- c. Too much responsibility placed on building certifiers by the current conformance framework and inadequate clarity of their role; and
- d. An over emphasis placed on regulatory controls at the point-of-installation within the conformance framework.

Survey findings presented in the report included:

- That 92% of 222 respondent companies reported non-conforming product (NCP) in their market sector. The extent of this penetration varied across the sectors surveyed.
- 45% of respondents reported NCP had adversely impacted on revenue, margins and employment numbers.
- 43% of respondents had not lodged a complaint when encountering NCP. Of these, close to half indicated that: they did not know who to complain to; or how to lodge a complaint; or reported that complaints previously lodged did not achieve a result.

Ai Group believes that Australia has adequate standards and regulations. However the operation of the conformance framework (that is comprised of all regulations, codes of practice, standards, certification or accreditation schemes that bring about product conformance in the building and construction sector) has gaps and weaknesses. The lack of independent verification and insufficiently visible regulatory authorities is making the conformance framework ineffective and unfair. The end result is undermining confidence in the regulatory system and the safety, quality and competitiveness concerns mentioned earlier.

The recent Infinity Cables recall shows the massive impact on the supply chain when high risk product enters the market that does not comply with relevant standards. The cost and safety aspects of this issue have yet to fully play out. The Docklands fire in Melbourne raises questions about Australia's conformance framework that allowed a product to be installed that, on the evidence available, does not appear to comply with the National Construction Code.

These well-publicised examples are only the tip of the iceberg of a problem that Ai Group believes is wide ranging across the building and construction sector.

Ai Group believes that Australian consumers and the community have the right to expect products are safe and of suitable quality. We also believe that businesses who put in time, effort and expense to ensure the products they make and use conform with appropriate standards and comply with relevant regulatory provisions should not be placed at a competitive disadvantage in the market. We are also mindful of the need to keep red tape to the minimum necessary.

To achieve these objectives, we have put forward recommendations in a number of reports and submissions including in our submission to this inquiry. I would like to draw particular attention to 5 of these recommendations:

Recommendation 1 – We should improve surveillance and audit activities on compliance with the National Construction Code

Recommendation 3 – We should expedite the development of the Inter-Governmental Agreement to underpin the Electrical Equipment Safety System (EESS).

Recommendation 5 – High-risk building products should have a higher level of evidence of compliance in the National Construction Code

Recommendation 7 – The feasibility of placing responsibility for product conformance at point-of-sale should be evaluated.

Recommendation 9 – The feasibility of establishing a confidential reporting system to facilitate the reporting of NCP should be assessed.

Ai Group recognises there is no silver bullet to the problem of Non-conforming products. We believe that it will take the cooperation of industry, regulators and governments to develop a lasting solution.

To facilitate this process Ai Group has played a leading role in creating the Construction Product Alliance to encourage wider buy-in and co-operation between industry, regulators and government. The Construction Product Alliance brings together public and private organisations working to promote awareness of non-conforming building products and identify opportunities for improved supply chain solutions. Stakeholder groups include: Builders and constructors, Product manufacturers & suppliers, Building designers & procurers, Building surveyors/inspectors/certifiers and Testing & Certification bodies.