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To: GEMS Review team
Appliance and Building Energy Efficiency Branch
Department of the Environment and Energy
GPO Box 787
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Introduction

This is a submission to the GEMS Act Review by PALS Ltd on behalf of Smardt Chillers Pty Limited (Smardt).

The GEMS Act 2012 ('the Act') has been effective in removing the least efficient appliances and equipment from several categories of electromechanical products in the Australian market. The positive outcomes for the Australian economy are immense. However we assert that there remain easily captured opportunities to deliver Australian consumers and industry even greater energy and cost savings with very minor revisions to the operation and implementation of the Act.

Smardt manufactures oil-free centrifugal chillers which provide among the highest IPLV energy efficiencies and the lowest lifetime operating costs in their capacity ranges in the world. Smardt continues to meet and exceed future government efficiency targets for this equipment type. Smardt has no particular difficulty in meeting existing and mooted GEMS Act requirements.

In Australia, sales of Smardt chillers dominate competitors with as much as 40% share in segments of the chiller market {200 kW through 8150 kW in water cooled chillers, 200 kW through 1800 kW in air cooled chillers and 200kW through 1320kW in evaporatively cooled chillers}.

The worldwide operations of the Smardt Chiller Group offer a greater depth of technical support and greater experience than anyone else in the world with oil-free centrifugal technology and its successful delivery of lifetime energy cost savings. Smardt continues to invest substantially in development of advanced chiller technology and operate manufacturing facilities in Australia, Canada, China and Germany.

While Smardt has a commercial interest in the provisions of the GEMS Act, the international group takes its social responsibilities seriously and remains committed to improving the efficiency of these long-lived equipment type and reducing any negative climate impacts caused by chillers of any type.

As a demonstration of this commitment, Smardt Australia has agreed to terms with Australian Government bodies to use its testing facilities in Australia and China to support compliance under the GEMS Act.

Background

The GEMS Act sets minimum efficiency standards whereas Smardt prides itself, and differentiates itself in the market, by supplying the most efficient chillers in the market. The procedural registration requirements of the GEMS Act and the cost of registering products are a drain on company resources but the company accepts the costs of efficiency laws as part of doing business in Australia, and as part of its commitment to reduce the environmental impact of its products.

The absence of any support in the GEMS Act for promoting highly efficient equipment (as opposed to simply specifying the lowest allowable efficiency) is an issue for Smardt and the reason for this submission.

In Smardt's view, the Commonwealth has an opportunity to bundle all equipment energy efficiency policies into the one legislative instrument, or at least signal its desire to build sensible support mechanisms into the GEMS Act that would buttress the operation of overlapping energy efficiency policies, such as actions under the Emissions Reduction Fund.

The GEMS Act is a major expression of long-operating government policy from all levels of government in Australia about basic equipment energy efficiency.

Various State Governments created legislative instruments imposing mandatory labelling obligations on consumer appliances from the 1980s. The imposition of mandatory minimum energy efficiency performance standards under state laws commenced in 1999 (after the idea was first accepted by Energy Ministers in 1992).

The Commonwealth GEMS Act in 2012 was really a form of nationalisation of those varying laws created by state governments. State and territory jurisdictions had passed laws mandating performance standards and labelling laws but the actual legislative instruments were quite different, leading to interpretation and compliance inconsistencies between jurisdictions. Four states (NSW, Victoria, Queensland and South Australia) also provided registration services (a necessary prerequisite for selling those equipment types in Australia) but at very different rates and with very different levels of administrative support for registering companies.

In large part, the problems in maintaining "a nationally consistent approach" from this amalgam of varying laws (some based around energy efficiency specifications, some on consumer protection, each with differing sanctions and bureaucratic enforcement cultures) was the major reason for state bodies ceding legislative authority to the Commonwealth (along with the Australian Government's need to meet its internationally agreed climate commitments).

The GEMS Act in 2012 was a compromise between competing elements of state legislative design and the obligations any sponsoring federal department has when proposing new Commonwealth legislation.

Industry stakeholders were especially vociferous about maintaining the hard-won concession from states like NSW to "family" or multiple model registrations for a single fee. That practice did not meet Commonwealth "Cost-Recovery" Guidelines in the public sector for administrative services like

registration. The compromise struck with the Department of Finance at the time was to revisit the issue once State Ministers had ceded the legislative mandate to the Commonwealth (effectively postponing the cost recovery issue till this formal 5 yearly review). It therefore seems an odd exclusion to exempt cost recovery principles from the ambit of this otherwise all-encompassing review.

State Governments also had an interest in maintaining a form of oversight in the GEMS Act, not just as a reflection of this shared history of development but also because state government energy exemplar programs had come to rely on the formal product registration services to ascertain precise product efficiency values.

The then newly developing white certificate programs being deployed by various state agencies wanted to use the declared product registration values under GEMS as a means to verify product claims made to their state programs.

The development of family registration (rare in 2012 but now common place) is where the least efficient model of product range becomes the declared value applying to all models in that range.

This development undermined the value of the public register to high efficiency programs as a means to verify individual model claims. The Commonwealth also did not progress state agency access to the Register's content (where additional data obtained from product suppliers but not made public could be accessed) possibly because the declared numbers were no longer specific to the more efficient equipment models.

The value to other agencies as a resource to identify the most efficient (or at least those more efficient than competitive offerings) has dropped away because the Commonwealth does not actively operate equipment-focused programs in this field. It has chosen to focus the GEMS Act on banning the worst equipment types from sale rather than supporting the marketplace to verify the claims from the more efficient equipment available.

The Opportunity

The GEMS Act in 2019 could be expanded to cover actions supporting suppliers like Smardt to be able to verify and sell highly efficient products in the marketplace. This legislative amendment would reflect the spirit of national coordination that led to the standardisation of efficiency specifications in the GEMS Act.

The legislative mandate would expand the Act's coverage from product standards and consumer appliance mandatory labelling to include reliable product information identifying the most efficient equipment available in the marketplace.

To lessen confusion and overlap, this "most efficient" product program might only operate for non-consumer equipment types (because mandatory comparative labelling can be and has been imposed for consumer appliances where cost effective). While this change would increase compliance costs for affected parties, it could be justified because it would otherwise lessen compliance costs to programs operated by state and territory governments and potentially the Commonwealth in the future.

For commercial and industrial products unsuitable to the existing consumer categorical label, the "most efficient" could be set as a discrete performance level for that equipment type published in tandem with the MEPS levels in the relevant product regulation.

The revised GEMS regulation would effectively divide the existing market for commercial or industrial equipment like chillers into three (not two) categories – 1: equipment banned from sale on inefficiency grounds, 2: equipment MEPS compliant and, 3: equipment that meets the "most efficient" performance standard.

This latter category forces a "truth-in-advertising" standard upon the market and could be called up by exemplar programs (eg qualify for white certificates or the Emissions Reduction Fund or otherwise be promoted as the best available). This division of product still capable of being sold lawfully into two categories of MEPS compliant and Most Efficient compliant has a host of benefits for all stakeholders.

A It eases the introduction of future MEPS. This GEMS Act might set out the target for the most efficient category when it published MEPS regulations for non-consumer appliances. For fast developing equipment, the level might equate to the top 5 or 10% of existing models (so that in 5 or so years time the "most" efficient category might become the future MEPS).

In equipment types where product development is slower, the most efficient benchmark might be set to include a higher number of current models but the policy aim would remain constant; to use the most efficient performance level as the future MEPS level at some agreed future date. The actual levels would be set through stakeholder negotiation for each industrial or commercial equipment type and those negotiations might be directed to draw on international experience to establish the appropriate level.

The most efficient would target becoming that future MEPS once stakeholder agreement had been struck and due regulatory review processes had been completed. The CoAG Energy Ministerial forum would still oversight the tiered scheme but all stakeholders would have greater certainty about outcomes and industry would have diminished risk when investing in product development to meet MEPS levels and beyond.

B It can provide better evidence when future MEPS levels should become law. This three-tiered system would produce reliable evidence as to when the MEPS/ Most efficient categories needs to be refreshed and generate a dialogue with key stakeholders about revising timetable issues, if necessary. If recent registrations are clustering in the most efficient category, there will be an urgent need to improve the MEPS standard.

If over time the anticipated registrations qualifying for most efficient do not eventuate, the timeline for ramping up the MEPS could be delayed. Hard evidence derived from registration trends rather than well intentioned predictions made years before would drive the MEPS revision system, minimising risk and costs to all parties. Once dates were set by Ministers, any aggrieved party could produce evidence from the market about the need to accelerate or decelerate the future introduction of MEPS or Most Efficient categories. In the absence of objections a final decision could be made a year or two before the scheduled introduction date using the most up-to-date information from the marketplace.

C It could help customers who want access to simple and reliable comparative data. The internet makes possible the promotion of a most efficient equipment category and opens a range of comparative, benchmarking opportunities for qualifying products. Government agencies might partner with industry associations to present awards to suppliers of the very best equipment models.

Marketers might access the most efficient public register to promote efficient equipment in any form they wish. Government procurement and other forms of overt support could be generated once the category is up-and-running. A simple web search might direct interested parties to sites where only the most efficient are displayed.

The department should prepare to support a well informed market by freeing access to the data as far as is possible. The most efficient category should NOT generate a mandatory labelling obligation (with all its associated costs) though the system should retain the flexibility to permit motivated suppliers to affix some form of agreed statement along those lines to their product or on their website if they so choose.

The most efficient can be reported not only on the public register but government agencies might support trade association or related bodies undertaking product promotion on comparison websites or at industry events. The GEMS Act can be considered deficient in that it only covers mandatory labelling not information programs per se. It could (like the US voluntary information schemes eg Energy Star) set out the agreed performance levels for the most efficient category but only after a debate with stakeholders over what information programs and levels government supports.

D It could change registration practices by waiving fees for the most efficient category, reversing the present discouragement to innovative models generated by the present family-discounting registration fee arrangements.

The GEMS Act should be changed so the registration requirements for suppliers who wish to register commercial and industrial equipment have a choice. For registrations qualifying in the most efficient category, only a single model may be registered with each registration (not numerous models as under a family definition).

This imposes a greater administrative cost on suppliers to provide information about their products but will ensure the most efficient category accurately reports models comparing them across the range of models available in the market. In keeping with the Commonwealth cost recovery guidelines, Smardt suggests registrations in this category requiring unique individual model data NOT incur a registration charge from government.

This form of support from the Commonwealth would recognise the extra work in reporting the most efficient equipment models and acknowledges the additional internal costs incurred by companies in providing more detailed information about each of their most efficient models (rather than bundling them into a MEPS complaint family registration that minimises administrative processing – and obscures the real efficiencies available across a product range). For equipment models only meeting MEPS and not qualifying for the most efficient category, Smardt recommends that these equipment models should be subject to full cost recovery of registration services (ie the MEPS compliant

registrations cross subsidise the registration charge for Most Efficient models). In the longer term as efficiency across the marketplace improves, the once most efficient models will drop into being just MEPS complaint category and a registration fee will then be applied to them.

The most efficient category should always remain an opt-in voluntary scheme for unique models without an administrative processing fee charged by government. If a supplier does not wish to claim this status for an individual model but rather for administrative reasons chooses to bundle them into a family MEPS registration, that is their choice. They would not have to register that unique model but they would have to pay the registration fee as part of the family grouping.

In Conclusion

The GEMS Act is one of the most visible expressions of Government policy in equipment energy efficiency. It would be helpful if that Act better dealt with the oversights of its history, its integration with other programs targeting equipment efficiency and endeavours aimed at motivating suppliers to market the most efficient models rather than settle for just defining the minimum efficiency required to market products in the Australian market.

Please feel free to contact the author to discuss any of the material herein.

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