

# P U B L I C S T A T E M E N T



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Wednesday 24 June 2009

## ARBITRATOR CLARIFIES EFFECT OF PUBLISHING AGREEMENT

Mr Michael McHugh, Arbitrator (and former High Court Justice), has published his decision in SAI Global's application that Standards Australia only proceed with Australian Standards developed by third party accredited Standards Development Organisations (SDOs) where exclusive publishing rights for SAI Global have been secured.

Revenues derived from accredited SDOs have historically not been material but the arbitration addressed a long-standing point of disagreement between the parties on interpretation of the commercial-in-confidence Publishing Licence Agreement ("PLA") of 2003.

Standards Australia contended to Mr McHugh that the PLA did not require Standards Australia to secure exclusive publishing rights for SAI Global for Australian Standards to be developed by third party accredited SDOs.

In his written award dated 23 June 2009, Mr McHugh has not accepted Standards Australia's view and has confirmed that, under the PLA, Standards Australia must not permit or knowingly allow SDOs to develop Australian Standards without securing for SAI Global exclusive rights to publish, distribute, market and sell those Australian Standards.

Standards Australia will consult with relevant stakeholders in relation to Mr McHugh's decision.

### BACKGROUND

Standards Australia entered into arbitration with its publisher and distributor, SAI Global, in July 2008 following the failure to resolve differences over the publishing and distribution rights for Australian Standards written by autonomously accredited Standards Development Organisations (SDOs).

This is a long-standing issue with Standards Australia in discussions with SAI Global since late 2005 regarding relevant terms of the commercial-in-confidence Publishing Licence Agreement (PLA) of 2003.

Central to the dispute has been the publication and distribution rights for Australian Standards developed by SDOs that have been accredited by Standard Australia's autonomous Accreditation Board for Standards Development Organisations (ABSDO) and which have been approved by Standards Australia to be identified as 'Australian Standards'.

The Productivity Commission raised concerns in its 2006 review of Standards Setting in Australia that the publishing agreement could create a disincentive for organisations to become accredited Standards developers.

Under a long-term agreement, SAI Global continues to hold publishing rights to Australian Standards produced by Standards Australia.

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