



COVERSHEET

Minister	Hon Kris Faafoi	Portfolio	Commerce and Consumer Affairs
Title of Cabinet paper	<i>Enhancing New Zealand's Conformance System</i>	Date to be published	12 June 2019

List of documents that have been proactively released

Date	Title	Author
1 May 2019	<i>Enhancing New Zealand's Conformance System</i>	<i>Office of the Minister of Commerce and Consumer Affairs</i>
6 May 2019	<i>DEV-19-MIN-0092</i>	<i>Cabinet Office</i>

Information redacted

No information has been redacted.

In Confidence

Office of the Minister of Commerce and Consumer Affairs

Chair, Cabinet Economic Development Committee

ENHANCING OUR CONFORMANCE SYSTEM

Proposal

1. This paper seeks agreement to the Conformance System Strategy which is designed to enhance our conformance system.

Executive Summary

2. The conformance system is New Zealand's arrangement for providing independent assurances about the quality of goods, services, systems and personnel. The system protects communities and supports commerce. Conformity assessments are used as a regulatory tool in many portfolios, for trade facilitation, business productivity and consumer protection.
3. I have reviewed our conformance system in consultation with the providers and users of conformity assessments. I have found that it is effectively supporting the economy, the wellbeing of people and the environment. I have also identified a number of opportunities for Government action to improve regulatory practice, assurances for trade, cooperation, skills and technology adoption in the system.
4. If no action is taken, there are risks to achieving our regulatory objectives and of reducing the system's quality and reputation. These risks are significant because conformance plays an important role in protecting people and our overall wellbeing and economic aspirations.
5. I have identified a set of actions that will mitigate the risks and make the most of opportunities. I propose the Conformance System Strategy (the Strategy) as the vehicle for communicating and coordinating the actions. The Strategy sets out the Government's aspirations and actions for enhancing the conformance system. It provides a high-level foundation, common narrative and policy direction for improvements based on four focus areas and related outcomes for conformance:
 - 5.1. Organisational performance and governance
 - 5.2. Regulatory quality and practice
 - 5.3. Partnerships for skills and value
 - 5.4. International trade connections.

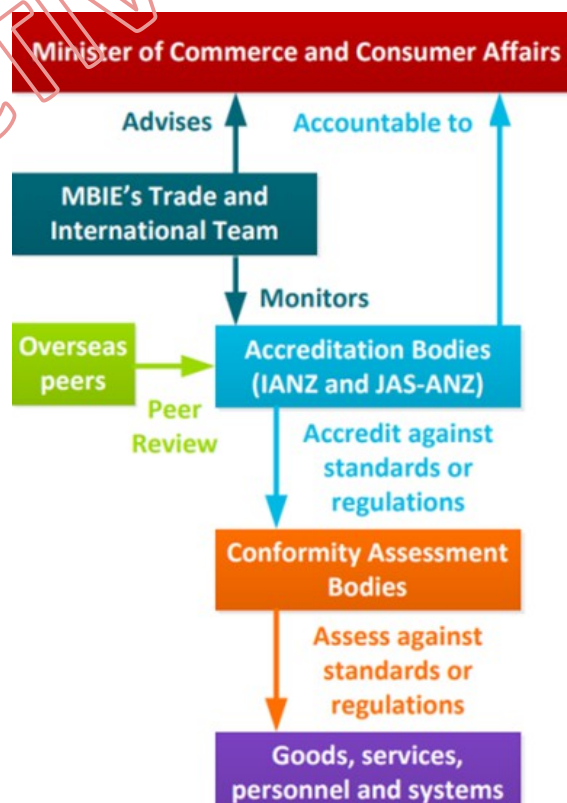
- Subject to the Committee’s agreement, the Strategy will be published and implemented by the Ministry of Business, Innovation and Employment (MBIE) with conformity assessment and accreditation bodies and relevant agencies over the next three years. The outcome will be reported back to Cabinet at its conclusion.

Background

Conformance protects communities and supports commerce

- New Zealand’s conformance system (the system) makes an important contribution to a productive, sustainable and inclusive economy. The Government, businesses and consumers rely on conformance. It is used to make informed purchasing decisions, support trade and protect communities.
- Conformance is largely invisible to the public when it is working well. It is made up of regulations, organisations and arrangements for conformity assessment and accreditation. Conformity assessment is the term used internationally for assessments that determine whether goods, services, personnel or systems meet standards and regulatory requirements. International Accreditation New Zealand (IANZ) and the Joint Accreditation System of Australia and New Zealand (JAS-ANZ) are key organisations as the two accreditation bodies in our system. They check the competence of over 700 conformity assessment bodies.

Diagram: Structure and functions of conformance system



9. Conformity assessments are used on a mandatory basis in many regulatory systems, such as building consenting, medical and environmental testing laboratories and hazardous machinery. The assessments are also used on a voluntary basis, for example, by businesses to demonstrate quality and improve productivity.
10. If the conformance system is ineffective at determining regulatory compliance, there are risks of regulatory failures and serious consequences for people, the environment and our trade. For example, some water quality testing laboratories and assessors were prompted to improve their processes to better protect public health following the *Government Inquiry into the Havelock North Drinking-water Outbreak*.

Our conformance system is well-regarded overall

11. My portfolio priorities this term included reviewing the conformance system, through the Conformance Policy and Infrastructure Review (the review). The findings bring together different perspectives from organisations, agencies and people involved in conformance (the sector).
12. The review was conducted by MBIE with a view to ensuring we maintain a trusted, reliable and high quality system for New Zealand. It involved extensive targeted consultation with relevant businesses and business groups, conformity assessment and accreditation bodies and government agencies (see paragraph 31 below for more details).
13. The review has not revealed fundamental structural or legislative problems with the overall conformance system. On balance, the system is sound, fit for purpose and in keeping with the size of our economy. It is well regarded and widely accepted overseas.
14. Having two major accreditation bodies works well for New Zealand. The accreditation bodies are effectively helping conformity assessment bodies to improve their conformity assessment services. They have positive international reputations, which are facilitating market access for our exports.
15. The system is helping to make firms more productive by improving the quality of their goods, systems or services. Businesses that undergo conformity assessments are generally satisfied with the quality of services.
16. The system is also contributing to making our economy sustainable by providing assessments and certifications to organisations in areas such as forestry management, carbon emissions reduction, energy efficiency and sustainable business practices. Voluntary certifications in environmentally sustainable business practices and manufacturing are a strongly growing area of conformance activity.

Regulatory practice, assurance for trade, skills development, technology adoption and sector cooperation are priority areas for improvement

17. The review's positive overall findings do not mean we can be complacent or take the system for granted. The review has identified a number of risk areas and opportunities where Government action can help improve the system. These cut across government portfolios and are expanded on below.
18. There are shortcomings in regulatory practice involving the conformance system. Issues of role clarity and variation in regulatory design, oversight, monitoring and enforcement can risk poor outcomes in some regulatory systems. There are opportunities to learn from successful regulatory practice and improve regulators' understanding of the conformance system.
19. The review identified relatively low levels of confidence amongst our conformity assessment bodies and businesses in overseas conformity assessments of products imported into New Zealand – including instances of inadequate test sampling or misleading use of certification. Importers are not always clear about their due diligence obligations. Consumer safety may not always be fully protected as a result.
20. Waiting for conformity assessments causes significant delays for some businesses. The small size of New Zealand's market for conformity assessments is a factor in these delays because businesses have to wait for services to become available or seek services from overseas. There is unmet demand for some types conformity assessments. This highly technical and specialist sector is also facing skills constraints, which could worsen these delays if no action is taken.
21. Some conformity assessment bodies are not making the best use of technology to better support businesses, be more efficient or adopt leading international practices. This means the system is not as effective as it could be in helping our businesses to remain competitive with overseas firms by spreading knowledge and imbedding innovation. New technology can enable more efficient and precise conformity assessment techniques, and support conformity assessors to make robust determinations.
22. The sector is aware of these areas of risk and opportunities. Individual organisations and agencies manage and respond to these in different ways. These arrangements can be ad-hoc and inconsistent, particularly compared to Australia which has a very similarly structured conformance system. Organisations and agencies are not coordinating in response to systemic issues or sharing information as well as they could.

The proposed Conformance System Strategy provides a foundation for positive change

23. I have identified a set of actions to address the priority areas for improvement which will help maintain a trusted, reliable and high quality conformance system for New Zealand. I propose the Conformance System Strategy (the Strategy) as the vehicle for communicating and coordinating action. It sets out the Government's aspirations and plan for enhancing the system. I am seeking Cabinet agreement to give the Strategy, which is operational in nature, more weight and visibility.
24. Responding to the risks and opportunities does not require a significant departure from the status quo. It is about refining current practices. The Strategy addresses the need for a more effective and coordinated approach to common issues. It would help guide MBIE and the sector particularly, and allows us to measure progress. It will be an effective response as the relevant organisations and agencies are highly engaged and ready to partner with Government to achieve best practice for conformance.
25. The Strategy is set out in the table below. The four focus areas target the areas of risks and opportunity identified by the review.

Table: Conformance System Strategy

Conformance System Strategy
<p>The overall goal of the Conformance System Strategy is to maintain a trusted, reliable and high quality conformance system for New Zealand to protect communities and support commerce.</p>
<p>The Conformance System Strategy (the Strategy) is a foundation for enhancing conformance in New Zealand</p>
<p>The Strategy sets out the Government's aspirations and plan for the conformance system, which are designed to assist accreditation and conformity assessment bodies and other organisations, agencies and people involved in conformance (the sector). The Strategy addresses a range of current challenges and opportunities in conformance.</p>
<p>The Ministry of Business, Innovation and Employment (MBIE) will lead the strategy. It sets out actions we will take together over the next three years to enhance conformance.</p>
<p>The Strategy has four priority focus areas based on the main challenges and opportunities in conformance</p>
<p>Each focus area includes a relevant goal, success factors and planned actions. The Strategy is not limited to the planned actions. It is also designed to allow for new conformance sector-led actions and initiatives that contribute to the overall goal. The Government will measure progress against the goals after three years.</p>

Focus area one: Organisational performance and governance

Outcome: Organisations and arrangements for conformance are working together to uphold and embed best practice.

Success factors:

- A collaborative approach to enhancing organisational performance and addressing challenges in conformance
- A culture of continuous improvement
- Accreditation bodies play a leadership role
- International cooperation and engagement with overseas peers.

Actions that MBIE will lead:

- Connect accreditation bodies' accountability arrangements to the focus areas of the Strategy
- Quarterly Standards, Accreditation and Metrology meetings to coordinate efforts towards the overall goal with relevant peak bodies
- Deliver an induction package for new accreditation board member appointees.

Focus area two: Regulatory quality and practice

Outcome: Regulatory systems use the conformance system effectively to support their objectives for public health, safety, prosperity and wellbeing.

Success factors:

- Regulators commit to best practice for conformance in their regulatory systems
- More consistent approaches to the design, oversight and implementation of regulations involving conformity assessments and accreditation
- Clear roles and responsibilities that provide for appropriate accountabilities.

Actions that MBIE will lead:

- Publish best practice advice for regulators and provide a clear channel for regulators seeking advice
- Deliver an annual professional development seminar and learning resources on using standards and conformance
- Establish a regular good practice forum between the quality infrastructure bodies and regulators.

Focus area three: Partnerships for skills and value

Outcome: The adoption of information and technological innovations is accelerated to create additional value for business and consumers. High quality services are readily available at a reasonable cost.

Success factors:

- Conformance organisations commit to investing in skills and new techniques
- Clear career pathways and skills development for conformance professionals
- New technologies, practices and information are exploited to increase the efficiency, value and knowledge intensity of the conformance system.

Actions that MBIE will lead:

- Establish an annual forum for conformity assessment and accreditation bodies with an initial focus on skills and technology
- Initiate a workforce planning project
- Assist regulators to set clear career pathways and reduce unnecessary demands on assessors
- Encourage and support conformity assessment and accreditation bodies to lead initiatives that contribute to the outcome.

Focus area four: International connections

Outcome: The conformance system upholds market access objectives, encourages innovation and upholds robust and reliable assurances about the quality of our imports and exports.

Success factors:

- Importers understand conformance and their obligations
- New Zealand connects with international organisations to support exporters and improve the quality of overseas assurances
- New Zealand conformity assessment bodies export services overseas.

Actions that MBIE will lead:

- Provide information to importers to help them carry out due diligence
- Support ongoing work with the accreditation bodies to lift the effectiveness of overseas conformance through international organisations
- Promote good practice for standards and conformance internationally.

The Strategy will be led by my officials

26. The Strategy will be implemented through a range of actions led by MBIE and overseen by me. It will also underpin my accountability conversations with the accreditation bodies and MBIE's routine conformance policy and monitoring work.
27. Officials will report progress against the Strategy to me at regular intervals. The reporting will align with the annual planning and reporting cycles of the accreditation bodies. After three years, the Strategy will be evaluated against its four key outcomes and reported back to Cabinet.

The risks of the Strategy are low

28. Risks include that the Strategy relies on voluntary responses and effort. Parts of the sector may not be motivated or incentivised to participate in improvement initiatives. I have found the sector to be engaged in the review process, and it has welcomed action by Government in the areas outlined above. The Strategy design mitigates the risk by making participation easy and minimising participation costs. In some instances, collaboration is not appropriate. Many bodies offer services in competition with one another. So, the Strategy targets common interests.
29. Varying perceptions about the scope of the conformance system and the Strategy are a risk. The primary targets are accreditation and conformity assessment bodies (ie providers of conformity assessment services), and government agencies that use the system in the regulations that they administer. The bespoke quality assurance systems for food safety and transport were not included in the scope of the review or the Strategy.

Next steps

30. Subject to Cabinet agreement, MBIE will publish the Strategy on its website and start the work programme. I also seek authority to approve any minor editorial changes to the Strategy contained in this paper, prior to its publication, to improve its readability and accessibility for the public.

Consultation

31. The proposals follow consultation with the conformance sector, which involved gathering information, ideas and feedback through in-depth interviews, a survey, a consultation document and workshops. The consultation targeted both providers and users of conformance and accreditation services, including relevant business groups and industry bodies.
32. International Accreditation New Zealand, the Joint Accreditation System of Australia and New Zealand, Standards New Zealand, the Measurement Standards Laboratory and Trading Standards were consulted. The Department of Industry, Innovation and Science, Government of Australia, was also informed of the proposals given its joint responsibility for the Joint Accreditation System of Australia and New Zealand.

33. The following departments have been consulted on this paper and concur with the recommendations: the Treasury, the Ministry of Business, Innovation and Employment, the Ministry for the Environment, and the Ministry of Health. The Department of Prime Minister and Cabinet has been informed. The Government Regulatory Practice Initiative has been consulted.

Financial Implications

34. There are no immediate financial implications from this paper. The Strategy will be implemented from existing baselines. MBIE would explore opportunities for small amounts of shared funding for collaborative initiatives where appropriate.

Legislative Implications

35. There are no legislative implications from this paper.

Impact Analysis

36. An impact analysis is not required for this proposal as it does not include legislative or regulatory changes.

Human Rights

37. There are no human rights implications from this paper.

Gender Implications

38. There are no gender implications from this paper.

Disability Perspective

39. There are no disability implications from this paper.

Publicity

40. I propose to issue a media release announcing the outcome of the Conformance Policy and Infrastructure Review. MBIE will publish the Strategy and supporting information on its website.

Proactive Release

41. I intend to release this paper proactively within 30 business days of final decisions being made by Cabinet. The release is subject to the necessary due diligence.

Recommendations

The Minister of Commerce and Consumer Affairs recommends that the Committee:

1. **note** that the conformance system (the system) supports commerce and protects communities by providing assessments that give independent assurances about the quality of goods, services, systems and personnel;
2. **note** that my recent Conformance Policy and Infrastructure Review, in consultation with relevant businesses, organisations and agencies, found the system is sound overall but identified a set of actions to enhance the system and mitigate risks to commerce and community protection;
3. **agree** to the Conformance System Strategy (the Strategy) as the vehicle for communicating and coordinating action to enhance the system. It targets four priority focus areas based on the main challenges and opportunities in conformance:
 - 3.1. Organisational performance and governance
 - 3.2. Regulatory quality and practice
 - 3.3. Partnerships for skills and value
 - 3.4. International trade connections;
4. **authorise** the Minister of Commerce and Consumer Affairs to approve any editorial changes to the Strategy, prior to its publication, to improve readability and accessibility for the public;
5. **invite** the Minister of Commerce and Consumer Affairs to evaluate the Strategy and report back to the Committee at its conclusion after three years.

Authorised for lodgement

Hon Kris Faafoi

Minister of Commerce and Consumer Affairs