

Paper # 4

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Are industry energy consumption standards enforceable under the Energy Conservation Act?

The Energy Conservation Act says in page 12 Article Chapter V, Section 14, Clause (g) "establish and prescribe such energy consumption norms and standards for designated consumers as it may consider necessary: Provided that the Central Government may prescribe different norms and standards for different designated consumers having regard to such factors as may be prescribed." that mandatory energy consumption standards will be set for industrial sector, as the Central Government may consider it necessary.

A fair interpretation of this provision would be the Government is trying to dictate to the industry how much energy should be used to manufacture a ton of cement, steel, paper or textiles. Looking at the diversity of an industrial sector in India it will be a tall order to do justice to plant owners. Some plants look like museums, others are State-of-the-Art in terms of technology and management. Government *shape up or shut down* tactics will therefore not work. Being inefficient in energy consumption is not like polluting the environment. One cannot smell and sense energy inefficiency as one may sense environmental pollution.

Other provisions of the Act stating any investment in energy efficiency should be financially attractive weaken Article Section 14, Clause (o) "direct any designated consumer, who does not fulfil the energy consumption norms and standards prescribed under clause (g), to prepare a scheme for efficient use of energy and its conservation and implement such scheme keeping in view of the economic viability of the investment in such form and manner as may be prescribed." What is financially attractive to a firm will be decided by a firm and not by an Act. Other legal implications of Article Section 14, Clause (n) "direct every designated consumer to comply with energy consumption norms and standards" provisions are a possible liability Chapter VI, Section 16 and Chapter VII, Section 20 sub-Section (2), Clause (d) of the Government for demanding technology changes to become more energy efficient that may not work as predicted. Furthermore the penalty clause of 1000 Rs/day for violators is certainly no serious deterrent to companies anyway. Therefore not all is well with Article Section 14, Clause (g).

A friendlier and in fact better interpretation of these clauses is the intention of the Government to inform firms where they stand with respect to their specific energy consumption in relation to competitors. A better word for this exercise would be '*benchmarking*' instead of '*setting standards*'.

Many industrialized countries are seeking voluntary agreements with industry. The cement industry in Germany for example committed itself to reduce their specific energy consumption by 20% from 1987-2005 and to reduce energy related specific CO₂ emissions by 28% from 1990-2008.

Mandatory standards have been nowhere attempted around the globe. However, setting benchmarks and encouraging those who are not performing to improve is a sensible approach of Government intervention in a free market. The Japanese Government has followed this approach quite successfully since 1972 by providing financial and technical assistance to firms that want to reduce their specific energy consumption in order to improve their benchmark. Other countries believe more in free market forces and "let the weak die out".

The Government of India has decided to follow the Japanese approach. However, this requires first to classify firms based on their specific energy consumption. Those in charge of implementation of this provision of the Act are well aware that it is neither possible nor advisable to expect a 50 year old small cement plant to shape up and become the darling of energy efficiency.

Judging from the response of industry to the above provisions of the Act , there is certainly an interest in knowing where an individual plant stands and why it occupies this position. Let us call it a “Gold / Silver / Bronze/Red Alert” standard. Furthermore there is interest in technical and financial assistance from the Government to move a firm from a ‘Bronze’ level to ‘Silver’, and from ‘Silver’ to ‘Gold’.

However one cannot expect the Energy Conservation Act to be bothered too much about firms who are in ‘Gold’ and want to become even better, or those who are in the red alert zone.

The mission of a national Energy Conservation Act is to reduce the bandwidth of specific energy consumption of an industrial sector. This is best done by not wasting Government money to assist the best to even become better, and by ignoring those who are at the rock bottom of the performance bandwidth. The latter need more diverse assistance to survive than just improving energy efficiency.