

March 16, 2009,
Norm Breton P Eng.
General Manager Product Safety
Electrical Safety Authority

RE : Your response to my letter to the Hon. Harinder Takhar dated March 11, 2009

Mr. Breton,

Thank you for your response to my letter to the Hon. Harinder Takhar dated March 11, 2009.

I wish to re-iterate that I stand by every point made the above mentioned letter detailing my reasons for opposition to the ESA Electrical/Electronic Manufacturers implied mandatory registration requirement and fee structure. We can discuss this further on your visit to our facility on March 23, 2009.

Further, after careful review of all legislation you quote in your communications we believe the ESA may indeed be unwittingly committing the crime of extortion with its mandatory electronic/electrical manufactures registration and fee scheme.

The ESA produced a letter Dated Jan 13, 2009, that was sent by various safety agencies, to up to 10,000 electrical/electronic manufacturers throughout the world. This letter states in regards to the alleged mandatory registration and continuing fees:

“Initial registration will cost \$350 and yearly renewal will cost \$300/year. Your registration will be required in addition to a recognized certification mark or field evaluation label for electrical products to be approved for sale in Ontario. Products failing to meet these requirements will be considered “unapproved” and subject to investigation, public notification and fines.”

This statement implies that if the mandatory registration is not made the products will be considered “unapproved” and therefore not legal for sale in Ontario. Further it implies the manufacturer may be subject to fines. This statement implies the ESA has a legal right to these actions.

Next, looking at the actual legislation Ontario Regulation 438/07 , the legislation you quote in the letter drafted on Jan 13, 2009, and in many communications with myself, we see the legal description of an approved product stated explicitly as ;

Deemed approvals

1. 2. (1) An electrical product or device that falls into one of the following categories is deemed to be approved:

1. An electrical product or device for which a certification body has issued a report certifying that the electrical product or device conforms to the applicable standards for the electrical product or device and,

i. the report is available to the Authority from the certification body,

ii. the electrical product or device complies with all standards of design and construction and all terms and conditions set out in the report, and

iii. the electrical product or device bears the certification body's mark, which identifies the electrical product or device as certified for use in Canada.

(Category 2 and 3 not displayed as they are irrelevant for the purposes of this letter.)

I submit to you sir, that our CSA certified electrical products meet all these requirements as would virtually all of the certified products produced by the recipients of the letter sent on your behalf by the safety agencies.

Further, I understand from your website and our various communications that there were many focus groups and stakeholder consultations performed in the drafting of your mandatory registration and fee scheme. In my letter to Mr. Harinder Takhar, I indicated we felt this process was severely flawed in its representation. Regardless, focus groups and stakeholder consultation do not constitute law in the Province of Ontario. That function is left to the Ontario Legislative Assembly of which Ontario Regulation 438/07 has passed.

I ask you now sir, can you provide any specific text of any legislation that supercedes 438/07 which explicitly defines what an “ approved” product is?

If you do sir, would you be so kind as to forward it to me on or before March 24, 2009.

Regards,

Tom Fortin
Director
Ontrak Control Systems Inc.
705 671 2652