

- infractions can be quickly identified
- transgressors are subject to some penalty or stigma
- market forces can be brought to bear in support of the guideline
- the process is assisted by dissemination of information
- disputes can be settled by parties other than the offender and its competitors
- applicable sanctions are administered by a disinterested third party
- the business stakes relating to rules adherence are not disproportionately high (17:5 and Brief pp. 5-6)

41. The foregoing conditions are relevant where non-legislated, but government-promulgated, guidelines or standards are being contemplated. However, even if all the factors existed and compliance could therefore be achieved with relative confidence, that still may not confirm that the approach was proper. To determine whether reliance on a non-binding approach was appropriate in a particular circumstance, what must be considered is whether the government would be fulfilling its responsibilities (both social and legal) if the approach were implemented. Following is a suggested model for evaluating when non-legislated approaches should be encouraged and when binding or legislated approaches should be implemented:

A MODEL FOR DETERMINING RESPONSIBILITY

No Standard	Standard of Use	Voluntary Standard	Legislated Standard*
Factors:			Factors:
End-product.			Product that has to be interchangeable with other products.
Small purchase price.			Large purchase price.
Frequent repeat purchases.			Infrequent acquisitions.
Information readily available to the consumer at low cost.			Information not available or very costly to disseminate.
Health, safety or environmental impacts are minimal.			Health, safety or environmental implications are significant in the use of the products.
Product development is new and rapidly changing.**			Product development is relatively static.

* Legislated standard should further be divided into four categories, from left to right: open reference to standard, dated reference to standard, standard written into a regulation and standard written into an act.

** Unlike the above factors, which relate to the demand for regulation, this factor affects the supply side: generally, the more static product development is, the easier it is to establish and impose a standard for the product.