



ACCI RESPONSE TO

**CHEMICALS AND
PLASTICS REGULATION**

**PRODUCTIVITY COMMISSION
DRAFT RESEARCH REPORT**

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ABOUT ACCI

The Australian Chamber of Commerce and Industry (ACCI) is Australia's peak council of business associations. ACCI is Australia's largest and most representative business organisation. Through our membership, ACCI represents over 350,000 businesses nationwide, including:

- Australia's top 100 companies.
- Over 55,000 medium sized enterprises employing 20 to 100 people.
- Over 280,000 smaller enterprises employing less than 20 people.

Businesses within the ACCI member network employ over 4 million working Australians. ACCI members are employer organisations in all States and Territories and all major sectors of Australian industry.

ACCI membership comprises State and Territory Chambers of Commerce and national employer and industry associations. Each ACCI member is a representative for small employers and sole traders, as well as medium and larger businesses.

On OHS issues ACCI also consults with a wide range of peak employer bodies who are members of ACCI and are members of the ACCI employers' network through the National Employers' OHS Consultative Forum (NEOHSCF).

A full list of ACCI members and NEOHSCF is available on the ACCI website at www.acci.asn.au

As the peak national employer business organisation, ACCI represents industry and the Australian and Safety Compensation Council (ASCC). As a member of the ASCC, ACCI is also involved in the ASCC tripartite technical groups that involve workers' compensation matters and the review and developments of OHS Standard and Codes of Practice.

ACCI is also a signatory to the government's National OHS Strategy which supports a nationally consistent framework. A nationally consistent approach is essential for employers and employees.

ACCI takes a leading role in OHS and workers' compensation, representing views of Australian business to government. Our objective is to ensure that the voice of Australian business is heard. Some of our specific activities include:

- Representation and advocacy to government, parliaments and policy makers both domestically and internationally;
- Representing business on OHS and workers' compensation in national and international for a such as the ASCC and the International Labour Organisation; and
- Research and policy development on issues concerning Australian business.

OVERVIEW

ACCI commends the Productivity Commission in its thorough and extensive report. It appears to thoroughly researched and attentive to the needs of industry. ACCI welcomes the opportunity to provide further input onto the Productivity Commissions study into the Chemical and Plastics Regulation.

In making this submission, ACCI seeks to provide a general overview only. It is for the chemicals and plastics experts to provide the primary source of information in relation to the issues raised in this report.

ACCI will focus on recommendations that relate to occupational health and safety and those which may impact more broadly on industry.

NATIONAL POLICY FORMULATON AND SYSTEM GOVERNANCE

Draft Recommendation 3.1

The current mechanisms and systems in place that impact on or influence chemical policies are both complex and duplicative. ACCI accepts that there is a need for high level policy coordination. The establishment of a Standing Committee on Chemicals established under the Australian Health Ministers' Conference would appear to be an appropriate mechanism to achieve this coordination when the COAG Ministerial Taskforce on Chemicals and Plastics has completed its reference. It would need to be closely monitored to ensure that it does in fact provide appropriate oversight. The Standing Committee needs to have sufficient power to control the activities of the various ministerial councils.

A mechanism should be established to ensure that industry has appropriate input into and influence with this Standing Committee.

NATIONAL HAZARD AND RISK ASSESSMENT

Draft Recommendation 4.1, 4.2, 4.3 & 4.4 – NICNAS

ACCI supports the recommendations in relation to NICNAS. NICNAS's functions and role require clarification and evaluation. The proposed recommendations will result in a more clearly defined function which should result in greater support from industry.

An analysis by NICNAS of the associated costs and benefits of its recommendations and the outcomes of its assessments is essential to ensure that industry has confidence in its operation. Clearly supported outcomes will ease their adoption into legislation when and if required.

Draft Recommendation 4.5 & 4.6 – National Registration Scheme for Agricultural and Veterinary Chemicals.

ACCI supports the intent to maximize net community benefit of the Scheme and to ensure its assessment requirements and outcomes are supported by analysis of the associated costs and benefits as a matter of principle.

PUBLIC HEALTH

The recommendations appear to ensure overall regulatory efficiencies, reduce duplication and jurisdictional differences which ACCI supports in principle.

OCCUPATIONAL HEALTH AND SAFETY

All jurisdictions currently have a sophisticated regulatory regime for ensuring users of chemicals are supplied with appropriate information on the hazards of products they are using and controlling exposure to these chemicals in the workplace. As noted by the Productivity Commission this appears to be an effective system. This system, though not without fault, has been developed with the intent of having a consistent applied regime in Australia. ACCI supports any moves to achieve greater consistency in an applied regime and other regulation related to controlling hazardous outcomes from chemicals.

Draft Recommendation 6.1

ACCI supports this recommendation. An analysis of the barriers to the uniform adoption of the Major Hazard Facility Standard and Code will be essential to identify where the problems lie. ACCI believes that the impediments to the uniform adoption of this regulatory regime, like many others, are more a matter of political will than true legislative barriers.

Draft Recommendation 6.2

ACCI supports this recommendation. The adoption of a simpler regulatory regime that consolidates the control of dangerous goods and hazardous substances is essential to ensure that the appropriate controls are in fact adopted in the workplace. As reported, the complexity and multiplicity of the regulations for substances in the workplace is seen as a major barrier to their adoption.

ACCI agrees that the GHS should be the basis of this new regime. However, how it is adopted and when its adoption is enacted, as the Commission rightly points out, must be based on the implementation of the system by our major trading partners. ACCI believes that:

- Not only should the implementation timeframe of the GHS be phased after that of our major trading partners but how and to what extent the GHS is adopted in Australia must be governed by the actions of our trading partners. The benefits of international harmonisation will only be realised if we in fact adopt a similar regime;
- Industry and the jurisdictions must work closely together to develop an implementation timeframe and framework that allows the smooth transition between systems;
- It must be ensured that industry understands and is familiar with this new classification scheme by having access to appropriate training; and
- That this opportunity is used to truly develop an integrated hazardous chemicals regime that is simpler and more streamlined.

Draft Recommendation 6.3

ACCI strongly supports this recommendation. It is impractical to expect 'end-use products' to comply with several regulatory labelling regimes. ACCI believes that the APVMA labelling code is the basis for a comprehensive risk based system that functions efficiently and is well accepted by both industry and the users of agvet products, which remain as their legislative labelling requirement.

Draft Recommendation 6.4

ACCI considers effective law, policy and practice on workplace safety is grounded in an appropriate mix of prevention measures, regulatory standard setting measures and balanced compliance activities. It continues to be in the national interest for there to be an effective tripartite national structure to oversee workplace safety, law and policy and practice.

As a matter of principle, governments should not act unilaterally on workplace safety law, policy and practice. For effective implementation of policy programmes, it requires the confidence of industry and the workforce as ultimately it is employer organisations and trade unions that implement changes to regulations and develop cultures that make workplaces safer.

Whilst ACCI agrees the new body should be statutorily independent, we do not support the proposed structure and composition in the draft recommendation for a new body to replace ASCC.

The new body should be working for all interests but also be independent of any single interest and should comprise multiple governments, trade union and employer representatives. The suggested smaller, more skills oriented board leaves open a number of unanswered questions including:

- The structure and membership of such a board and how members are to be appointed;
- The structure is not tri-partite so that industry representation does not appear to be guaranteed; and
- If there is no industry representation or none, which is, tied to a peak industry organisation, how is it planned to establish a two-way conduit to industry, to provide input and to disseminate information?

Occupational Health & Safety is a workplace issue in which employers and employees work closely together to achieve a safe and healthy workplace. Much of the regulatory framework and guidance materials to assist the parties is derived from national standards developed in close consultation with industry representatives in a tri-partite forum.

The suggested move away from a tri-partite Commission to a small 'expert' board would downgrade and in practice disenfranchise industry, which currently plays a very active and constructive role in developing national policy, national standards and the national strategic direction of Occupational Health & Safety in Australia through ASCC and importantly to distribute OHS information to the employer network.

The current tripartite process provides an effective mechanism for a wide and genuine consultation and a 'reality check' on bureaucratic decision makers and for a 'buy in' of all the parties who have an interest in and responsibility to implement national policies and strategies.

TRANSPORT SAFETY

ACCI supports the draft recommendations aimed at achieving great interjurisdictional uniformity and harmonisation by the adoption of the model acts and regulations and concurrent reviews to regulation. ACCI also supports the reduced costs to industry through the availability of the ADG Code on the internet.

ENVIRONMENTAL PROTECTION

While in theory this recommendation appears sound ACCI expresses concern that such a framework must be cognisant of the fact that other bodies and other legislative regimes impact on and control the availability and use chemicals both publicly and in the workplace. There would be potential for duplicative legislative restrictions to be placed on the use of chemicals. If such a framework is established, mechanisms must be put in place to ensure this cannot occur.

NATIONAL SECURITY

ACCI supports the recommendation intended to ensure greater uniformity in the control of security sensitive chemicals and to improve the harmonisation of regulatory control for security sensitive ammonium nitrate.

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