

Mr Mike Woods
Commissioner
Chemicals and Plastics Regulation Study
Productivity Commission
Locked Bag 2
Collins St
EAST MELBOURNE VIC 8003

Dear Mr Woods

Productivity Commission Study into Chemicals and Plastics Regulation

I am pleased to provide ACCORD's supplementary submission to the Productivity Commission (PC) study in response to the request for additional information following the roundtable discussions on chemicals and plastics regulation held in Canberra in December 2007.

In particular, the PC advised that it would like to receive further information that relates to any of the matters that arose from the roundtables, including:

- Data on the effectiveness and efficiency of the current chemicals and plastics regulatory system
- Institutional arrangements that could improve the efficiency and effectiveness of chemicals and plastics regulatory frameworks
- Opinions on the GHS, including the timing of Australia's implementation of the system
- The existence of 'gaps' in the chemicals and plastics regulatory system (for example, in environmental regulation)

To provide the PC study with quantitative data on the effectiveness and efficiency of the current chemicals regulatory system, ACCORD undertook a survey of our entire membership.

The survey explored issues based on previous concerns raised by members to determine the full extent of these concerns across the broad spectrum of membership and to quantify the impact on their business operations where possible. In addition, the survey built on a number of case studies to further highlight issues faced by members in their dealings with the chemical regulator, the National Industrial Chemicals Notification and Assessment Scheme (NICNAS). The full results of the Member survey and survey instruments are at Attachment 1 to this submission.

The survey consisted of two parts, the first collecting data broadly, in areas relevant to all industry members.

The second part asked targeted questions of key members in a range of supply chains to identify the:

- lost opportunities - the impact of the current regulatory system on the realisation of commercial opportunities;
- effectiveness or otherwise of NICNAS' Low Regulatory Concern Chemicals Regulatory Reforms (LRCC), and;
- operational performance of the Regulator.

Member interaction with NICNAS was chosen because for ACCORD's membership this is the one Commonwealth regulator which they have the most interaction with in their day to day operations. Therefore the results highlight the difficulties encountered by ACCORD's membership of only one element of the regulatory scheme and do not take into account the complexity and interaction of the other Commonwealth regulators and/or the intersection of other regulatory requirements such as dangerous goods, hazardous material, waste disposal nor even seemingly innocuous tasks such as packaging and labelling.

The main findings of ACCORD member survey are:

- Ninety-three percent (93%) of respondents who have experienced difficulties with NICNAS reported that products/formulations from their worldwide portfolio are unavailable in Australia due to Australian regulatory factors.
- Products are formulated/reformulated to avoid dealing with NICNAS.
- The current regulatory system is a barrier to innovation.
- The consequences of regulatory burden reported by members show that Australia is placed at a disadvantage with regard to commercial opportunity, compared to the major EU and US markets.
- Costs, data and time factors are individually cited in over fifty percent (50%) of cases as causes of regulatory burden.
- Based on financial estimates provided by a reasonably representative sample of ACCORD member companies, it is estimated that the lost opportunity cost to the industry represented by ACCORD (in terms of products being unavailable on the Australian market) is \$400 million.
- The current regulatory system is biased towards larger companies (companies with a turnover of greater than \$10 million).

While members have raised serious concerns about the impact of NICNAS processes on their day to day operations, it would be fair to say that the recent reform to products at the cosmetic/therapeutic interface are anticipated to deliver real benefits in both compliance costs and time to market. While ACCORD Members noted that the delay in passing the legislation, i.e. it was first announced in November 2005 and legislation was passed in September 2007, was estimated to have cost a \$21M loss in sales per annum, it can also be argued that industry stands to gain from reduced evaluation fees, no therapeutic Good Manufacturing Practice requirements and subsequent medicinal-level auditing for certain products now regarded as cosmetic. These changes now have the potential to deliver savings and reduce complexity.

The PC also sought additional information on the GHS, including the timing of Australia's implementation of the system. This information is provided at Attachment 2. Of interest to the PC study is meeting between the Government-led GHS Roundtable Group and DFAT on 7 February 2008 to discuss a study to assist to inform GHS implementation from a trade perspective. Industry has prepared a draft briefing document for the meeting and a copy is included for the PC's information. We believe that the results of the trading partner analysis will be useful to this study, however at this stage there is not a finalisation date for this project.

ACCORD reiterates previous statements regarding implementation of the GHS. Australia should not move ahead of its major trading partners. Instead the Australian Government should take advantage of the opportunity to maximise the benefits and minimise the costs of the GHS through the development of Australia's implementation strategy. ACCORD strongly recommends that the PC supports the engagement of the Departments of Foreign Affairs and Trade (DFAT) and of Innovation, Industry, Science and Research (DIIRS) in the development of Australian implementation strategies for the GHS as discussed in Attachment 2.

Regarding the request for further information on future institutional arrangements that could improve the efficiency and effectiveness of the regulatory system, ACCORD is pleased to inform the PC that the Chemicals and Plastic Leadership Group (CPLG) has engaged the Deloitte's Insight Economics consultancy to assist it in investigating such improvements and how they can be best delivered. The CPLG is to present its suggested framework for commencing these improvements to the PC via a presentation session which will be arranged shortly.

ACCORD would like to thank the PC for the opportunity to provide this additional information which we believe will greatly assist the study with regard to demonstrating in very real terms the burden of regulation for the chemicals sector in Australia.

Should you require any additional information about the matters addressed in our supplementary submission the contact officer is Ms Dusanka Sabic on 02 9281 2322 or email dsabic@acord.asn.au.

Yours sincerely

A handwritten signature in black ink, appearing to read "Dusanka Sabic", with a long horizontal flourish extending to the right.

Executive Director

21 January 2008