



Advocate for the Consumer, Cosmetic,
Hygiene and Specialty Products Industry

Mr Robert Fitzgerald
Commissioner
Consumer Product Safety
Productivity Commission
PO Box 80
BELCONNEN ACT 2616

Dear Mr Fitzgerald

ACCORD is pleased to provide the following comments in relation to the Productivity Commission's (PC) Discussion Draft of the Review of the Australian Consumer Product Safety System. These comments build on our earlier submission and address specific Preliminary Findings contained in the Discussion Draft.

ACCORD Australasia (formerly ACSPA) is the peak national industry association representing the manufacturers and marketers of formulated consumer, cosmetic, hygiene and specialty products, their raw material suppliers, and service providers. ACCORD's members market fast-moving consumer goods primarily in Australia and New Zealand. A list of ACCORD's members is attached.

ACCORD notes that the Australian Government has recently announced the establishment of the Regulation Taskforce which will look at, amongst other things, *specific areas of Commonwealth Government regulation, which are unnecessarily burdensome, complex, redundant or duplicate regulations in other jurisdictions*. Overregulation was raised as an issue in our previous submission and we made the following points:

In applying the COAG Principle for effective minimum regulation to address this issue, one would have to ask the question, why raise the current standard at all? Indeed the first question should be is the current level of regulation excessive given that the MCCA Discussion paper could not identify any significant problems with the current system nor any data to demonstrate their was a failure or regulatory gap in the current arrangements.

ACCORD welcomes the PC's Terms of Reference (TOR) which are aimed at providing a quantitative analysis of the situation and providing cost benefit data on the proposals put forward in the MCCA Discussion Paper. The PC's work should give us a better understanding of the scope for efficiencies in the area of product safety regulation by reducing the regulatory burden currently faced by Australian business.

Given the Government's renewed focus on reducing the regulatory burden on business, the review of Australia's consumer product safety system may well provide such an opportunity to examine ways of reducing the regulatory burden on industry within the context of its Terms of Reference. Given that the PC's initial findings indicates that Australia's consumer product safety system appears to ensure a reasonable level of product safety, ACCORD would be interested to know if the same levels of consumer safety can be delivered through alternatives to the current

regulatory system which would have the effect of reducing the overall regulatory burden on business in Australia without any diminution to the current standards of consumer product safety.

In general, ACCORD supports the direction of the PC's Preliminary Findings, particularly in regard to the evaluation of the current system and the finding that overall, Australia's consumer product safety system appears to ensure a reasonable level of product safety.

ACCORD notes the PC's Preliminary Finding 6.1 that it remains to be convinced of the value of introducing a general safety provision (GSP) into the Australian system of consumer product safety. ACCORD did not support the introduction of the GSP on the basis of the information presented in the Ministerial Council of Consumer Affairs (MCCA) Discussion Paper noting that there was no evidence or data to demonstrate that this additional regulatory requirement on Australian business is required and continues to hold that view.

ACCORD does not support Preliminary Finding 7.1 and is yet to be convinced that any additional requirements such as the introduction of 'foreseeable misuse' in the definition of 'unsafe' are warranted.

ACCORD does not support Preliminary Finding 10.2 as this would place an additional reporting burden on Australian business with no increase in consumer product safety outcomes.

The most significant benefit to business in the area of product safety as in any other area of government regulation would be to reduce duplication of legislation between the various jurisdictions as well as providing consistency in administration and enforcement. ACCORD supports a single law and single regulator as the most effective way of reducing duplication and achieving harmonisation in the area of not only consumer product safety but consumer protection in general. We would envisage that the Australian Competition and Consumer Commission (ACCC) would be expanded to take on this role rather than a new entity being developed. ACCORD encourages the PC to undertake more work on the development and costing of a national model.

ACCORD supports Preliminary Findings 14.2 and 14.3 regarding the adoption of permanent bans on a national basis.

ACCORD strongly supports the PC's Preliminary Findings regarding a stronger focus on risk analysis and risk management by regulatory agencies. Effective risk resource management ensures that regulatory resources are directed to the areas of greatest need. It also ensures that the regulatory agency fully understands its business priorities through a thorough analysis of its internal and external environment and improves transparency of a regulatory agency's decision making processes.

ACCORD supports the Australian Government's approach to regulatory best practice and has always recommended to regulatory agencies that the Council of Australian Governments (COAG) Principles and Guidelines for National Standard Setting and Regulatory Action by Ministerial Councils and Standard Setting Bodies (COAG Principles) should be rigorously applied in the consideration of any regulatory response to a perceived market failure. ACCORD supports the following as good regulatory practice principles which regulatory agencies should adopt in pursuing their regulatory reform agenda. Regulatory solutions should:

- be the minimum required to achieve the stated objectives;
- adopt a risk management approach to forming and administering regulation;

- minimize the impact on competition;
- be compatible with international standards and practices;
- cause no restriction to international trade;
- be developed in consultation with the groups most affected and be subject to regular review;
- be flexible, not prescriptive and be compatible with the business operating environment;
- standardize the exercise of bureaucratic discretion; and
- have a clear delineation of regulatory responsibilities and effective and transparent accountability mechanisms.

ACCORD's approach in this regard is consistent with the guiding whole-of-government principles we advocate all departments and agencies should follow whether (and when) considering regulatory action – that is, the COAG Principles. ACCORD notes the PC findings that the regulatory agencies involved in consumer protection in Australia can improve their adoption of the COAG Principles for minimum effective regulation by consistent adoption of regulatory impact analysis for regulatory decision making and a better understanding and application of the principles of mutual recognition legislation as it applies to Australia and New Zealand. The PC notes that industry as well as regulatory agencies may benefit from a better understanding of how mutual recognition legislation may be applied and perhaps should recommend that training is provided to industry to improve take-up in this area.

ACCORD seeks clarification of a point raised on page 82 of the Discussion Draft regarding Standards Australia. The Discussion Draft states that *a third of Australian standards are fully or substantially aligned with international standards and another third of Australian standards have no international equivalent.*

ACCORD is unsure if the example referred to applies to mandatory standards only or to the 6,000 or so Australian standards related to consumer safety referred to in the MCCA paper. If this refers to the latter, then this would imply that there are approximately 2,000 Australian specific requirements for consumer product safety which may lead to unnecessary barriers to trade or additional compliance costs to Australian business. This would be a cause for concern if the number of Australian specific standards was indeed this high.

Once again, I thank you for allowing ACCORD to provide comments on this important issue. Should you have any queries in relation to ACCORD's views on this matter, please do not hesitate to contact me on 02 9281 2322.

Yours sincerely

Approved for electronic transmission

Dusanka Sabic
Regulatory Reform Strategist

20 October 2005

ACCORD Australasia Membership

Advance Chemicals Pty Ltd	Northern Chemicals Pty Ltd
Albright & Wilson (Aust) Ltd	Novozymes Australia Pty Ltd
Amway of Australia Pty Ltd	Nowra Chemical Manufacturers Pty Ltd
Applied Chemicals Pty Ltd	Peerless JAL
Archem Australia Pty Ltd	Procter & Gamble Australia Pty Ltd
Auto Klene Solutions Pty Ltd	PZ Cussons Pty Ltd
Beiersdorf Australia Ltd	Reckitt Benckiser
Callington Haven Pty Ltd	Recochem Inc
Campbell Brothers Limited	Rohm and Haas Australia Pty Ltd
Canpoint International Pty Ltd	Scental Pacific Pty Ltd
Castle Chemicals Pty Ltd	Selkirk Laboratories Pty Ltd
Castrol Australia Pty Ltd	Solvay Interox Pty Ltd
Chemetall (Australasia) Pty Ltd	Sonitron Australasia Pty Ltd
Ciba Specialty Chemicals	Sopura Australia Pty Ltd
Clariant (Australia) Pty Ltd	Steric Trading Ltd
Cleveland Chemical Co Pty Ltd	Tasman Chemicals Pty Ltd
Clorox Australia Pty Ltd	Thor Specialties Pty Limited
Colgate Palmolive Pty Ltd	True Blue Chemicals Pty Ltd
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Deb Australia Pty Ltd	Whiteley Industries Pty Ltd
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DuPont Chemical Solutions Enterprise	AMS Laboratories Pty Ltd
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G S B Chemical Co Pty Ltd	Dermatest Pty Ltd
Henkel Australia Pty Limited	DSL Packaging
Huntsman Corporation Australia Pty Ltd	E-Three & Associates Pty Ltd
Jalco Group Pty Limited	Hydro Nova Controls
Jasol Australia	Middletons Lawyers
Johnson & Johnson Pacific Pty Ltd	Robert Forbes & Associates
Kao (Australia) Marketing Pty Ltd	Silliker Microtech Laboratories Pty Ltd
Lab 6 Pty Ltd	Sue Akeroyd & Associates
L'Oreal Australia Pty Ltd	Tonic Creative
Milestone Chemicals Pty Ltd	Visy Industrial Packaging