

Submission to the Productivity
Commission

Review of Cost Recovery
Arrangements of Regulatory,
Administrative and Information
Agencies

A . P . M . F .

Australian
Paint Manufacturer's
Federation Inc.

1st December 2000

The Australian Paint Manufacturers Federation Inc:

The Australian Paint Manufacturers Federation Inc (APMF) has a membership consisting of forty paint and ink manufacturers and ten chemical suppliers. Over 95% of all paints and inks sold in Australia originate from a member of the APMF. The industry manufactures approximately 220 million litres of paint annually and has a turnover of A\$1.56 billion.

Overview:

The impact of the Governments Cost Recovery Policy on the chemical industry, which includes paints, inks and other surface coatings, has been addressed in detail by the Plastics and Chemicals Industries Association (PACIA), the Australian Specialty Chemicals Manufacturers Associations (ACSMA) and other related industry groups. The submissions by PACIA and ACSMA have been reviewed by the APMF and are endorsed by this association. In this submission however, the APMF will be addressing the economic rationale behind the cost recovery policy.

It is the APMF's view that this policy is economically flawed and inappropriate to the Australian economy at this stage in the country's development.

"Cost Recovery" in a Capitalist Economy:

Governments, and this is not restricted to Australia although Australia appears to be leading the world in this area, are increasingly embracing the concept of "cost recovery" as a justification for raising charges against specific sectors of industry. The theory appears to be that if the Government initiates a process or procedure which is specific to a clearly definable activity of an industry sector then the Government may attempt to claim from that industry all, or a portion of, the costs of that activity through the imposition of fees, charges, levies, duties etc. The claimed justification is that it is only fair that the "user pays" principle be applied so that other sectors of industry, or society in general, are not unfairly taxed in order to cover the costs so incurred by Governments.

In reality this theory is wrong in principle and bad in practice. "Cost recovery" in this context is no more than a tax on industry. It flies in the face of the economic theory underlying the market economy. That theory holds that the people agree to be taxed by the Government so that the Government can regulate the country in the interests of all its inhabitants. In a simple analogy all tax payers contribute to the cost of the Fire Brigade, in consequence the Fire Brigade does not levy fees and charges for attending fires at homes and businesses.

Effect of the "Cost Recovery Principle" on the Coating Industry:

The coatings industry is exposed to the "cost recovery" principle under three legislative implements. These are:

- National Industrial Chemicals Notification and Assessment Scheme (NICNAS)
- National Registration Authority (NRA)
- Therapeutic Goods Administration (TGA)

The primary purpose of this legislation is to gather information about the products and substances controlled by the legislation and to ensure that information is available to relevant authorities and/or the public so that decisions can be taken

with regard to the control or use of those products. The exercise of control in regard to chemical substances, which may be hazardous in some form or another, is a proper function of government.

Under each piece of legislation there exist an increasing number of fees and charges which are designed to recover the cost of monitoring, by the respective Government Agencies, of the importation of new industrial chemicals and chemical products (in the case of marine anti-fouling paints), the review of the chemical profiles with a view to assessing their health, safety and environmental effects and the publication of such information.

The APMF's central argument is that such activity is a valid activity of the Government in much the same way as other Government agencies in areas of health, agriculture, public safety etc, monitor and regulate activities in their areas of responsibility. It is in the interests of society as a whole that such regulatory authorities exist. Accordingly it is reasonable that the costs of achieving this objective be met from the general revenue and not through the imposition of fees and charges imposed on companies who have no choice as to whether or not to be regulated by these pieces of legislation. Such fees and charges cannot be seen other than as a tax on their operation.

In this context the fees and charges are not only a tax on the industry, but they are a tax on the downstream consumers of the products produced by the chemical industry. In the case of Australian manufacturers of paints and inks this includes such industries as the Australian automobile manufacturers, Ford, GMH Holden, Mitsubishi etc and indeed on almost every company involved in the manufacturing of goods in Australia. It is a corollary that the fees and charges are also therefore a tax on exports as these products constitute the bulk of Australia's exports. The application of the "cost recovery principle" in the chemical industry has therefore a long tail which adversely impacts on the profitability and cash flow of many companies both inside and outside of the chemical industry.

Cost Recovery Distorts the Operation of Normal Market Forces:

The regulatory body is in the position of a monopoly. The companies regulated have no choice in their dealings with the regulator. Accordingly, fees and charges set by the regulator can never be subjected to the laws of supply and demand which regulate price in a free enterprise economy. The use of the "cost recovery principle" to raise revenue from industry must therefore always be a matter of arbitrary decision by the regulator. Accordingly the fee setting process distorts the industry's cost structure and thus places some companies at a disadvantage in competing with other companies who for one reason or another may not have been subjected to the same regime of fees and charges.

As an illustration of this point, one may compare a company with a turnover of less than A\$500,000 per annum, importing chemicals already on the Australian Inventory of Chemical Substances (and thus not liable to any of the fees and charges raised by the National Industrial Chemicals Notification and Assessment Scheme) with a company subject to all the fees and charges payable under that scheme. The only difference between the two companies is that the first company escapes the NICNAS fees and charges because it is a small operator using old technology whereas in the second case the company, being a medium to large firm, is seeking to introduce new technology into Australia. Clearly, in this example, the application of

the “cost recovery principle” is inefficient and distorts the free operation of the market economy.

Cost Recovery is an Inefficient Way of Raising Revenue:

Government bodies employing the “cost recovery principle” are, in effect, pursuing a monopoly pricing policy. Their operations are not subject to competition and the fees and charges they raise are therefore determined almost solely by the bureaucrats who run the organisations. The policy is invariably to maximise revenue. Initially the income stream maybe directed towards meeting the basic costs of the operation but very soon is seen by the bureaucrats as a way of extending the organisations operations. Each such extension may be justified as advancing the objectives of the legislation. But, as the department operates as a monopoly, these decisions do not have to stand the test of competitive scrutiny. Departmental funding is at least subject to the discipline of the budget and estimates committee process.

But funds raised under the “cost recovery principle” are not subject to such review processes and present an irresistible opportunity for departments to maximise income and extend operations. In this way NICNAS has already accumulated a significant cash reserve from its range of fees and charges which is being held under a policy of prudent financial management. The APMF would argue that it is not industry’s function to provide financial reserves to fund the future activities of Government agencies. These monies come at the cost of running down the operating capital of the companies subjected to the “cost recovery principle”.

Conclusion:

It seems incongruous that the Government, which reportedly wishes to support a vital and growing manufacturing sector, should inhibit the growth of the coatings industry by allowing regulatory authorities to impose an ever increasing range of fees and charges created under the umbrella of the Government’s “cost recovery principle”.

A more realistic policy would see the Government reducing the impediments to the development of the coatings industry and instead facilitating the introduction of new technology and new coatings, rather than placing obstacles in the industry’s way which force companies to make decisions as to what products they will or will not produce in Australia based not on market considerations but on which products are likely to incur the lowest level of fees, levies etc. Research carried out amongst members of this Federation indicates that time and time again coatings manufacturers are making decisions as to which coatings to introduce into Australia not on the basis of what the market really needs but on the basis of what the market can afford having regard, in particular, to the exorbitant level of fees and charges imposed under the free regulatory schemes listed above.

Sydney, 1st December 2000