

C&P

(CHEMICALS AND
PLASTICS)

Action Agenda

20 ALLARA ST
CANBERRA ACT 2601
GPO BOX 9839
CANBERRA ACT 2601

TELEPHONE:
02 6213 7736
FACSIMILE:
02 6213 7613
E-MAIL:
chemplas@isr.gov.au

Cost Recovery Inquiry
Productivity Commission
Locked Bag 2
Collins St East Post Office
Melbourne VIC 8003

Dear Productivity Commission

PRODUCTIVITY COMMISSION INQUIRY INTO COST RECOVERY

Thank you for providing the opportunity to provide input into your inquiry into cost recovery by Commonwealth Government Regulatory, Administrative and Information Agencies.

In March of this year, the Minister for Industry, Science and Resources, Senator the Hon. Nick Minchin announced that the Federal Government had joined with the chemicals and plastics industry to develop an Action Agenda, that would outline a future growth strategy for the industry. As part of the development of the Action Agenda, I chair an industry based Working Party that is investigating regulatory reform issues. The implementation of full cost recovery by regulatory bodies has been of particular concern to the chemicals industry.

The attached submission provides background information on the Chemicals and Plastics Action Agenda, and identifies our key concerns with the implementation of full cost recovery by Commonwealth Regulatory Agencies. Individual industry associations will be providing submissions that raise particular issues for their sub-sector.

I would be happy to discuss these issues further at a public inquiry. I can be contacted directly on (02) 9839 4010.

Yours sincerely

Donald Hector
Chairman
Regulatory Reform Working Party

(Managing Director – Asia Pacific Specialty Chemicals Ltd.)

13 November 2000

**CHEMICALS AND PLASTICS
ACTION AGENDA
REGULATORY REFORM
WORKING PARTY**

**SUBMISSION TO THE PRODUCTIVITY
COMMISSION INQUIRY INTO COST
RECOVERY BY COMMONWEALTH
GOVERNMENT REGULATORY,
ADMINISTRATIVE AND INFORMATION
AGENCIES.**

NOVEMBER 2000

Background to the Chemicals and Plastics Action Agenda

The Commonwealth Government announced the Action Agenda program in *Investing for Growth*, in December 1997. The process brings industry and government together to address impediments and identify new opportunities for growth in specific industry sectors. While the government provides the framework and logistical support for the process, they are essentially driven by industry.

In March 2000, the Minister for Industry, Science and Resources, Senator the Hon. Nick Minchin announced that the Federal Government had joined with the chemicals and plastics industry to develop an Action Agenda for the industry. The development of the Action Agenda is driven by an industry-based Steering Group, chaired by Ms Kate Abrahams from Australian Challenge. It includes representatives from a range of sub-sectors, Federal and State Government industry departments, CSIRO and the Royal Australian Chemical Institute. Full membership of the Steering Group is listed at **Attachment A**.

The Regulatory Reform Working Party was one of four Working Parties formed at the first meeting of the Steering Group in March 2000. Other Working Parties are addressing issues relating to Scenario Planning of the industry, Innovation & Emerging Technologies, and Education & Training. The membership of the Regulatory Reform Working Party is at **Attachment B**.

The individual Working Parties have provided reports back to the Steering Group for consideration. The Steering Group will be preparing a consolidated report to the Government, outlining the key issues that are facing the industry, and actions that they believe need to be undertaken by both the industry and Government to take advantage of current and future opportunities for growth.

This submission has developed by the Regulatory Reform Working Party. It does not necessarily represent the views of the Steering Group, or reflect what may be in the final report to Government.

Overview

While the majority of chemicals management activity lies with State and Territory Government agencies, Commonwealth Government agencies have responsibility for assessment of chemicals and chemical products. The industry primarily interacts with the following agencies:

- the National Industrial Chemicals Notification and Assessment Scheme (NICNAS);
- the National Registration Authority (NRA) for Agricultural and Veterinary Chemicals; and,
- the Therapeutic Goods Administration (TGA).

All of these agencies currently fully recover their costs through a mix of company levies and new chemical or product assessment fees.

The Working Party recognises the value of regulation to the industry. Regulation can engender public confidence in the industry and the products that are produced. Accordingly, the Working Party believes that cost recovery is a reasonable principle to pursue. However, the policy of full cost recovery fails to recognise 'public good' benefits provided by regulation. In addition, there has been little incentive to ensure regulations and the administration of such regulations is efficient.

Public Good Aspects of Regulation

While industry benefits from consumer confidence in the industry and the products produced, the assessment of new chemicals and chemical products provides a 'public good' to the wider community, by providing an assurance of protection of public health and safety, and the environment. In addition, NICNAS, the NRA and the TGA conduct reviews of existing chemicals and products. These are fully funded by industry, yet the benefit of these reviews is entirely captured by the wider public.

Well-designed regulation can encourage innovation in new production processes and products. While individual companies can benefit significantly from this innovation, the knowledge generated can spill over into other companies and industries. In 1995, the then Industry Commission identified that the social rate of return on R&D spending in Australia was as high as 50 per cent¹. The Commonwealth Government has recognised the value of encouraging greater innovation through a number of programs that provide financial support for business expenditure on research and development. The Working Party believes that the 'innovation-driver' aspects of regulation should be recognised as a public good.

NICNAS, NRA and TGA dedicate resources to compliance monitoring and administration of full-cost recovery. The Working Party does not believe that those companies who are complying with the regulations should be paying for the monitoring of companies who may not be in compliance, or that companies should be charged for the costs of administration of cost recovery.

The Commonwealth regulatory agencies also provide policy advice to the Commonwealth Government. This can also include participation and attendance at international negotiations. It is unclear whether the industry is subsidising these activities.

The Working Party urges the Productivity Commission to recommend that the Commonwealth consider partial cost recovery where there is evidence of the existence of a public good aspect to the agency's activities.

Impacts of Full Cost Recovery

With only 1% share of the world market, Australian chemical production relies heavily on input chemicals from overseas. There are a number of examples where chemicals 'in-use' overseas have not been introduced in Australia, even though the use of the chemical could be used to improve the performance of a product, and/or lead to an improvement in either environmental quality or public health and safety. It is estimated that at least 2 million litres more solvent is emitted per year because low solvent paints are not available in Australia.

Unavailability of low solvent paint - Environmental Impact.

The Australian Refinish Industry uses approximately 15 million litres of paint per year, of which more than 50% is low solids acrylic lacquer that has a solvent content of 70-80%. While low solvent alternatives have been made available in the USA and Europe, the technology has not been introduced in Australia. It is estimated that at least 2 million litres more solvent is emitted per year than would be the case if low solvent alternatives were available in Australia.

While some agencies argue that assessment costs are not significant, the costs charged by agencies may only be a fraction of the total cost a company may pay for an assessment. For example, while NICNAS charges \$11,700 for a standard notification, some companies face costs of up to \$250,000 to provide the necessary data packages required for assessment. This is a major impediment to the introduction of new technology in small Australian markets. For

¹ Industry Commission (1995). Research and Development. Industry Commission Report No.44

example, companies in the pigment industry claim that it can take 2-3 years of profit to cover costs of assessment. Accordingly, many new chemicals are not introduced, or introduction is delayed, while overseas technology is constantly changing.

While some of the agencies have investigated options to recognise overseas approvals, the Working Party believes that there is a disincentive to move quickly in this direction, as it may reduce the work required to be undertaken in Australia. A greater recognition of approvals by overseas authorities would significantly reduce costs of providing information, and would reduce costs to the agencies. This would lead to lower assessment fees and ensure that downstream industries have access to the latest technology.

A further problem for many companies is the product classifications used by Australian regulatory authorities, and the associated requirements for product registration. For example, pool chemicals and marine anti-fouling paints are regulated by the NRA. Household disinfectants and liquid hand-washes are regulated by the TGA.

Cost of Australian agencies using different product classifications.

TGA legislation requires that liquid hand-washes claiming an antibacterial effect are regulated as therapeutic goods. In Europe, the same products are regulated as cosmetics. TGA legislation requires an extensive data package be provided for registration and that they be notified prior to changes being made to the products. TGA also requires that the product is manufactured at a Good Manufacturing Practice medicinally licensed premises. These uniquely Australian requirements impose significant barriers, delays and costs to introducing new products or upgrading existing products which forces extra costs on to consumers. One company estimated that the net cost of the extra regulation (as opposed to if it was regulated along the same lines as in Europe) is over \$160,000.

It is not clear that the more extensive registration process required by these agencies provides an equal or greater benefit to either the consumers or the environment.

The adoption of full-cost recovery has removed the discipline provided by the Government budgetary process. While the various agencies do undertake some consultation with industry, the lack of transparency of the agencies' costs makes it very difficult for industry to accurately gauge whether the agencies are operating efficiently.

Regulatory agencies that recover their costs, either in part or full, should be independently assessed for productivity, with enforceable productivity targets (including cost reduction targets where necessary) put in place for each agency. Appropriate monitoring systems should be implemented to measure productivity on an on-going basis against these targets. Transparency could be improved through removing fixed costs such as company registration fees, and basing all fees according to activities/services provided.

Chemical assessments are currently undertaken entirely by Government agencies. Accordingly, there is no competitive pressure on these agencies to provide their services in a timely or cost effective manner, therefore potentially causing higher costs for assessments. The Working Party recognises that restricting chemical approvals to Government agencies ensures high standards of health, safety and environment protection, however competition could be allowed in the actual assessment, while final approval would still be the responsibility of the relevant agency. An ANAO audit and National Competition Policy Review have previously recommended that the NRA accept alternative suppliers of assessment services.

Should assessments be opened up to alternative service providers, agencies responsible for the final approval would need to clearly communicate the performance standards that the assessments should meet. This would also increase the transparency of the regulatory process and reduce opportunities for bureaucratic discretion, thus bringing the agencies closer into line with the COAG principles of good policy and regulation.

ATTACHMENT A

CHEMICALS AND PLASTICS ACTION AGENDA STEERING GROUP MEMBERS

Kate Abrahams	(Chairman), Chief Executive Officer, Australian Challenge (Operations) Pty Ltd;
Peter Knowles	Managing Director, Wesfarmers CSBP Ltd;
Donald Hector	Managing Director, Asia Pacific Specialty Chemicals Limited;
Dr Nicole Williams	Chief Executive Officer, PACIA;
Michael Bracka	Managing Director, Cussons Pty Ltd;
Craig Wellman	Managing Director, Wipco;
Dr Greg Simpson	Deputy Chief, CSIRO Molecular Science; CSIRO Plastics Sector Coordinator
Prof David Black	Past President, Royal Australian Chemical Institute
Ken Pettifer	Head of Manufacturing, Engineering and Construction Division, Department of Industry, Science and Resources
Veshi Basharen	Victorian Government representative; Manager, Chemicals Industry, Department of State and Regional Development
Dr Peter Murphy	West Australian Government representative; Executive Director, Resources Development Strategies, Department of Resources Development
Robert Fairley	Managing Director, Qenos
Noel Williams	Director of Strategic Development, Asia Pacific Dow Chemical (Australia) Limited & Dow Pacific;
David Brett	Managing Director, Ecolab
Graeme Varcoe	NSW Government representative; Senior Manager, Industry (Resources) Division, NSW Department of State and Regional Development
Shane Moloughney	General Manager, Nylex Polymer Group
Ross Southam	General Manager, Ameron (Australia) Pty Ltd; Managing Director, Ameron (New Zealand) Ltd

CHEMICALS AND PLASTICS ACTION AGENDA REGULATORY REFORM WORKING PARTY MEMBERS

Donald Hector	(Chairman) Managing Director, Asia Pacific Specialty Chemicals Limited;
Michael Bracka	Managing Director, Cussons Pty Ltd;
Robert Fairley	Managing Director, Qenos
Ross Southam	General Manager, Ameron (Australia) Pty Ltd; Managing Director, Ameron (New Zealand) Ltd
Daniel Burke	Technical Manager, Ecolab
Bronwyn Capanna	Executive Director, Australian Chemical Specialty Manufacturers Association
Ian Swann	General Manager, Plastics and Chemicals Industry Association
Claude Gauchat	Executive Director, Avcare
Michael Hambrook	Executive Director, Australian Paint Manufacturer's Federation