



SUBMISSION TO THE PRODUCTIVITY COMMISSION

IN RESPONSE TO

**THE ANNUAL REVIEW OF REGULATORY BURDENS ON
BUSINESS: IDENTIFYING AND EVALUATING
REGULATION REFORM**

29 JULY 2011

CropLife Australia Limited

ABN 29 008 579 048
Level 2 AMP Building
1 Hobart Place Canberra ACT 2600
Locked Bag 916 Canberra ACT 2601

Tel 02 6230 6399
Fax 02 6230 6355
www.croplifeaustralia.org.au

INTRODUCTION/ EXECUTIVE SUMMARY

CropLife Australia (CropLife) is the peak industry organisation representing the agricultural chemical and biotechnology (plant science) sector in Australia. CropLife represents the innovators, developers, manufacturers, formulators and registrants of crop protection and agro-biotechnology products. The plant science industry provides products to protect crops against pests, weeds and diseases, as well as developing crop biotechnologies that are key to the nation's agricultural productivity, sustainability and food security. The plant science industry is worth more than \$1.5 billion a year to the Australian economy and directly employs thousands of people across the country.

CropLife member companies spend more than \$13 million a year on stewardship activities to ensure the safe use of their products on the environment and human health. CropLife ensures the responsible use of these products through its industry code of conduct and has set a benchmark for industry stewardship through programs such as **drumMUSTER**, ChemClear® and Agsafe Accreditation and Training

Our members have a particular interest in ensuring that the regulatory regime for agricultural chemicals effectively manages the potential risks associated with using these products, but does so as efficiently as possible.

Over recent years, CropLife has extensively engaged in a variety of consultations on regulatory reform. This has included detailed submissions to the Productivity Commission's *Research Report on Chemicals and Plastics Regulation*, COAG processes to develop a *Nationally Harmonised System for Agricultural and Veterinary Chemical Regulation* and the Federal Government's *Better Regulation of Agricultural and Veterinary Chemicals* processes.

CropLife regularly engages with Commonwealth, state and territory governments to respond to regulatory reform proposals. CropLife is concerned that despite significant efforts to secure meaningful reform in chemical regulation, the burden on agricultural chemical registrants continues to grow without any evidence of additional benefit to users, consumers or the environment.

While significant effort has been made to generate meaningful reforms in chemical regulation in Australia, the system remains mired in duplication, inconsistency and inefficiency. While CropLife recognises that the Productivity Commission does not intend to reopen individual recommendations made by governments seeking reform of chemicals regulation in Australia, the causes of the inability of governments to meaningfully progress many of the agreed reforms will provide useful insights into the priority setting mechanisms that governments can use when seeking to successfully identify and implement necessary reforms.

ISSUES

Agricultural chemicals are an essential input into modern farming systems. Agricultural chemicals improve yields, control pests, weeds and diseases and protect crops after harvest. In total, some 30 to 50% of all food grown in Australia is reliant on the responsible use of agricultural chemicals. However, when used illegally and irresponsibly, agricultural chemicals may present an excessive risk to users, consumers and the environment. It is for this reason that CropLife supports appropriate regulation of agricultural chemicals.

Regulation is necessary to ensure that the significant, demonstrable benefits associated with the responsible use of agricultural chemicals are available and that the potential risks are minimised. Appropriate regulation achieves this balance effectively and efficiently. CropLife notes that the 2008 research report on Plastics and Chemicals Regulation found that chemicals regulation in Australia was largely effective, but not efficient. As a result, a range of reforms was subsequently identified and accepted by the Government for adoption.

Regulatory reform is one way in which governments can drive productivity improvements. Minimising the regulatory burden on businesses facilitates greater investment in research and development that will drive ongoing productivity improvements in agriculture. Regulatory reform in agriculture also has the potential to address some intransigent public policy issues, especially around minor uses of agricultural chemicals, where the cost of regulatory compliance far exceeds any economic return likely to be achieved. In these circumstances, reducing regulatory burdens can facilitate safe and reliable access to agricultural chemicals by smaller, emerging horticultural industries.

Since 2008, despite significant effort by governments and industries, there has been no improvement in regulatory efficiency and only limited outcomes on many agreed reforms. Many reforms have not been progressed, or are being progressed in ways that increase the burden on industry.

PRIORITISING REGULATORY REFORM

CropLife notes that prioritising regulatory reform activities can assist governments identify those reforms that are likely to deliver the greatest benefit to Australia's economy. As reform is not an activity that comes without cost to governments, industries and the community, CropLife supports efforts to prioritise reform activities.

Once recommendations for reform have been identified, it can become more difficult for governments to prioritise reforms. Chemicals regulation in Australia is particularly complex and challenging with chemicals regulated by several regulators in all jurisdictions. This makes for a complex set of interrelating rules and regulations that need to complement each other and work together to efficiently control chemical risks. In this context, prioritisation of recommendations can be problematic as one recommendation can have impacts across the regulatory system.

Reforms associated with chemicals regulation often need to be viewed as a package and progressed collectively to ensure effective outcomes.

Given the complexity of chemicals regulation in Australia, it is useful for the scope of a regulation review to be clearly defined. This facilitates targeted examination and assessment of a particular component of the regulatory environment. Limits to scope may, however, need to be flexible to facilitate recognition of external factors or elements that impact the capacity of an area under review to be effective.

For example, risks to users of agricultural chemicals are currently subject to at least three separate reform processes that are poorly linked and coordinated. Current reforms to Australia's occupational health and safety laws will require changes to agricultural chemical labels. This will impact upon the training and licensing requirements for chemical users, which is subject to a separate and additional reform process under the Primary Industries Ministerial Council, as well as being impacted by potential labelling reforms being implemented by the Australian Pesticides and Veterinary Medicines Authority (APVMA). While it is important to maintain a clear scope for regulatory reviews, they must also consider the broader regulatory environment in which they operate.

For the Productivity Commission to effectively conduct its reviews, it must retain the capacity to consider the impact (if not review) issues that strictly fall outside the scope of any current review, but that nonetheless have an impact on the efficiency of regulation.

COORDINATING REGULATORY REFORM

Within a complex regulatory system, it is critically important that reforms that have consequences for more than one regulatory scheme are coordinated between affected regulators. CropLife has observed that where this coordination is required, the capacity for different regulators to cooperate towards a mutually beneficial outcome is limited, resulting in excessive delays in reform progress.

CropLife has observed greater progress on reform activities where responsibility clearly falls within the policy and legislative remit of a single administrative structure. Reforms to improve the efficiency of the APVMA through the *Better Regulation of Agricultural and Veterinary Chemicals* and COAG's *National Harmonisation of Agricultural and Veterinary Chemical* processes have made some progress in identifying and implementing regulatory reforms.

This is in contrast to changes that fall within the responsibility of other agencies with accountability for regulating chemicals that have proven very slow and resistant to reform.

CropLife had expected that problems with coordinating reforms across regulators would be mitigated by the Standing Committee on Chemicals (SCOC). However, with only limited resources and no direct authority, SCOC has little ability to drive reform by regulators. Some improvement in the current approach is required to force consistency upon regulators and to prevent conflict in regulatory requirements. SCOC may be useful as a forum to formally address such conflicts.

EVALUATING REGULATORY REFORMS

Governments and regulated industries commit significant resources to promoting regulatory reform. For industries, this is because all regulation imposes costs on businesses. These costs need to be justified in terms of the policy outcomes sought or the capacity for those policy outcomes to deliver benefits to the community that outweigh their cost.

CropLife has been disappointed at the slow pace of reform following significant effort made to identify necessary reforms in chemical regulation throughout 2008. Many 'early harvest' reforms identified for completion by the end of 2008 remain incomplete.

While identification of areas in need of reform is important, better evaluation of reform would be particularly useful. CropLife has noted that many reforms recommended in the Government's response to the *Plastics and Chemicals Regulation* have not been implemented several years after they have been agreed. An effective, formal monitoring and reporting scheme would increase the accountability of departments responsible for implementing government reforms in a timely manner.

Implementation delays not only forgo the efficiencies that could be achieved through timely implementation of reforms, but also increase the resources required for industries and governments to continue to engage in and drive reform.

Regular, public reporting on progress on the implementation of reforms remains one of the best ways to not only identify challenges associated with reform recommendations, but to also ensure that progress on implementation is genuine. Recent reports published by SCOC outlining the implementation status of chemicals regulatory reform have highlighted a series of issues where implementation has not met the expectations of industry.

CropLife notes that particular challenges of implementation occur when more than one regulatory authority is responsible for implementing a reform. Constant disagreements, challenges and consequent delays minimise the opportunity for meaningful timely reforms to be implemented. Regular, public reporting gives industries and governments the opportunity to identify potential issues at an early stage and suggest mechanisms to address concerns between regulators in a way that does not diminish the standards of protection for users, consumers and the environment.

CONCLUSION

Industry often has a unique perspective when examining reform progress. Unlike many government departments, businesses must have systems and processes in place that facilitate compliance with all the regulation imposed by various governments and departments. Businesses and industry are thus aware of subtle interactions between the legislative schemes imposed by different regulators and different jurisdictions.

This unique perspective facilitates a different view to that of regulators, which are often driven by a desire to maintain the integrity of an existing regulatory system as opposed to looking for genuine productivity improvements.

For regulatory reviews to be effective, their results need to be promptly implemented. With respect to chemicals regulation, CropLife has seen limited improvements in terms of chemical regulation despite significant resources being dedicated to that task. A greater focus on publically and regularly reporting upon the progress in implementing reforms would increase the accountability of responsible departments to implement agreed reforms. Without improved accountability, the efforts in prioritising, reviewing and recommending reforms to improve the efficiency of the regulatory system are wasted.