

Productivity Commission

National Competition Policy analysis 2025 – Interim Report

ACCORD SUBMISSION

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Executive Summary

Accord welcomes the Productivity Commission Interim Report on the National Competition Policy analysis 2025 and supports identification of the Australian Sunscreen Standard AS/NZ 2604 *Sunscreen products – Evaluation and classification*, the lack of recognition of International Fragrance Association (IFRA) standards and related controls for risk management of fragrance ingredients, and biosecurity laws as example priority areas to review.

We also welcome recognition of medical cleaning products and agricultural and veterinary products. We note that some reform work is already underway for these and hope to see Treasury's competition reform guidelines and the best practice handbook applied to these reforms.

This submission provides further analysis of the issues for the Australian Sunscreen Standard, lack of adoption of IFRA standard and biosecurity rules that apply to our industry and proposes some potential solutions.

Australian Sunscreen Standard

Analysis of the issues

It is technically correct to say that there is no equivalent international standard for AS/NZ 2604 *Sunscreen products – Evaluation and classification* (Sunscreen Standard). It is more a Frankenstein's monster of quasi-regulation that incorporates some relevant International Standards Organization (ISO) standards and adds other regulatory elements.

Below is a table of ISO Standards that are adopted in Australia via the Sunscreen Standard and those that are not.

Test type	Adopted	Not adopted
SPF	<ul style="list-style-type: none"> ISO 24444:2019 Cosmetics — Sun protection test methods — In vivo determination of the sun protection factor (SPF) 	<ul style="list-style-type: none"> ISO 23675:2024 In vitro determination of sun protection factor (SPF) ISO 23698:2024 Measurement of the sunscreen efficacy by diffuse reflectance spectroscopy
UVA/UVB (broad-spectrum)	<ul style="list-style-type: none"> ISO 24443:2021 Cosmetics — Determination of sunscreen UVA photoprotection in vitro 	<ul style="list-style-type: none"> ISO 24442:2022 Cosmetics — Sun protection test methods — In vivo determination of sunscreen UVA protection
Water resistance	<ul style="list-style-type: none"> ISO 16217:2020 (with Australian modifications) Cosmetics — Sun protection test methods — Water immersion procedure for determining water resistance 	<ul style="list-style-type: none"> ISO 18861:2020 Cosmetics — Sun protection test methods — Percentage of water resistance

The Sunscreen Standards Committee (CS-042) decides whether to adopt the ISO Standard into the Sunscreen Standard. This decision does not have to consider relevant government policies of the day nor consider the costs and benefits of the decision.

Example 1

The CS-042 made the decision not to adopt the ISO *in vivo* broad-spectrum test, ISO 24442. I understand that the decision was based on the majority of committee members at the time deciding that human testing should be avoided.

Avoiding human testing is not an Australian Government policy. Accepting international standards (for trade facilitation) is.

Where an overseas-based company tests their products to ISO 24442, to enter the Australian market, they need to retest to ISO 24443. This is mandatory for primary sunscreens and high SPF moisturising sunscreens – they must all be broad-spectrum. This increases the cost of sunscreen products for the Australian public.

An Australian company that wants to market their sunscreens in Australia and in another country that only accepts *in vivo* testing e.g. Korea, must also perform two broad-spectrum tests – one to ISO 24442 and another to ISO 24443. This makes Australian businesses less competitive by increasing the cost of products they market.

Further, the two-step process, of considering whether to adopt the ISO Standard into the sunscreen standard at CS-042, then the regulatory consideration by the TGA whether to adopt the sunscreen standard, not only add time but add unnecessary complexity to the regulatory process.

Example 2

ISO 23675 and ISO 23698 were finalised last year and published as alternative SPF test methods that deliver equivalent results as ISO 24444.

Early this year, Accord submitted a proposal to CS-042 to adopt the two new standards, citing Standards Australia policy of adopting ISO Standards where they exist, which also aligns with an Australian Government policy. CS-042 decided not to adopt the two new ISO Standards at that time. Due to Accord's insistence, the discussion is still open, and we have organised ISO technical experts to attend the CS-042 meeting in mid-September 2025 to explain their consideration leading to the finalisation of the ISO Standards.

Until the new ISO Standards are adopted into the Sunscreen Standard, the TGA cannot adopt the new ISO standards, despite their recent public statement in support of the *in vitro* SPF testing.

The process of adopting the new ISO Standards will likely take until the end of 2026, even if everyone agreed now that they should be adopted in Australia.

ISO 23675 and ISO 23698 has been in use in the EU since December 2024, when they became ISO Standards. This is a delay of two years for Australia that could be avoided if we had a more streamlined structure.

Although the TGA is expected to do an impact assessment for the adoption of the updated Sunscreen Standard, this is the wrong point in time for impact assessment. The options that could increase the benefit and decrease the negative impact of the updated Sunscreen Standard have already been considered and decided by CS-042, without relevant information to guide them nor any obligation to consider them.

Example 3

The CS-042 did not analyse or consider the benefits or negative impacts before deciding not to adopt the new SPF test methods. If they had, the following may have been evident:

- the *in vitro* SPF is significantly cheaper than the *in vivo* test (approximately 1/10th), which could result in
 - o cheaper products
 - o more frequent testing/robust results
- there is evidence to suggest that there is greater consistency in results, due to the removal of some variables from the methodology, the most significant being the human test subjects
- the test is not geographically limited to where pale people are (Fitzpatrick skin types I, II and III are the only test subjects allowed in the *in vivo* test), leading to potentially greater number of testing labs globally (greater competition)
- competition for testing labs can increase in Australia – there is currently one lab that offers *in vivo* test in Australia

To be fair, it is not the role of a technical committee to consider social and economic impacts of their decisions – it is not their strength. The issue is with the structure of our regulation of sunscreens, which includes the adoption of the Sunscreen Standard, that leaves regulatory decisions in the hands of a technical committee.

The TGA is currently considering changes that will have a very significant impact on sunscreen products, potentially resulting in re-formulating and testing of >50% of all sunscreen products currently on the market. Setting aside the merits of that proposal and likelihood of implementation, if it was implemented, being able to use *in vitro* test could cut the SPF testing cost by approximately 90%.

Assuming one SPF test is performed per product on the ARTG, and assuming 50% or 450 formulations are replaced, and assuming that 50% of the replaced formulations can be tested using *in vitro* test (products not claiming water resistance), that's a saving of approximately \$2M just for this one round of formulation changes. In reality, companies are likely to perform more SPF tests – experimental formulations will not always achieve the target SPF in the first try – and therefore the savings are likely to be greater.

Potential solution

There is a way to untangle the current Sunscreen Standard. It involves adoption all relevant ISO Standards as identical adoption by Standards Australia, and moving regulatory elements contained in the Sunscreen Standard e.g. labelling requirements, as needed, to relevant regulators. The regulators will also need to reference the specific standard for each of the relevant testing i.e. SPF, broad-spectrum, water resistance for compliance. While this will require some work, the result is greater international alignment, and regulatory policy and implementation sitting with Government bodies, where it should.

To transition, the TGA could allow compliance with both the Sunscreen Standard and the new way of compliance for a generous length of time to avoid unnecessary additional regulatory burden.

If this work is not done, then the Sunscreen Standard will continue to get in the way of the Government achieving its objectives.

Adoption of IFRA Standards

Analysis of the issues

In our last submission, we provided a detailed analysis of the issues with not recognising IFRA with examples.

The root of the issue is that IFRA Standards, an internationally recognised safety standard for fragrances is not incorporated in any of the multiple regulations that governs consumer products and cosmetics at Federal and State level.

The result is that the same fragrance ingredient may be considered three or more times in three or more different regulatory processes in Australia with potentially different results each time (Chemical Scheduling, AICIS, TGA Permissible Ingredients Determination).

The same ingredient is accepted in the EU, ASEAN and New Zealand for all uses without further assessment if it meets the IFRA Standard.

The Australian regulatory consideration is also not as sophisticated as IFRA consideration, which considered the risk for various types of products and places limits on concentration based on the risk of the ingredient when used in the specified product (see table below for IFRA product type categories).

TABLE: IFRA STANDARD CATEGORIES BY PRODUCT TYPE.

Category	Product type
1	Products applied to the lips
2	Products applied to the axillae
3	Products applied to the face/body using fingertips
4	Products related to fine fragrance
5	Products applied to the face and body using the hands (palms), primarily leave-on:
5A	Body lotion products applied to the body using the hands (palms), primarily leave on
5B	Face moisturizer products applied to the face using the hands (palms), primarily leave on
5C	Hand cream products applied to the hands using the hands (palms), primarily leave on
5D	Baby Creams, baby Oils and baby talc
6	Products with oral and lip exposure
7	Products applied to the hair with some hand contact:
7A	Rinse-off products applied to the hair with some hand contact
7B	Leave-on products applied to the hair with some hand contact
8	Products with significant anogenital exposure
9	Products with body and hand exposure, primarily rinse off
10	Household care products with mostly hand contact:
10A	Household care products with mostly hand contact
10B	Household care products with mostly hand contact, including aerosol/spray products (with potential leave-on skin contact)
11	Products with intended skin contact but minimal transfer of fragrance to skin from inert substrate:
11A	Products with intended skin contact but minimal transfer of fragrance to skin from inert substrate without UV exposure
11B	Products with intended skin contact but minimal transfer of fragrance to skin from inert substrate with potential UV exposure
12	Products not intended for direct skin contact, minimal or insignificant transfer to skin

Potential solution

The simplest solution to recognising IFRA Standard is multi-step and may require legislative changes to multiple legislation.

1. Create a group schedule entry in the Poisons Standard for substances with an IFRA Standard, where the substances are unscheduled if they meet IFRA Standard. This would require working with States and Territories to ensure that the schedule entry can be picked up in State/Territory regulations.
2. Add all fragrances to the Permissible Ingredients Determination, except when they are restricted by IFRA Standard.

3. Exempt fragrances meeting IFRA Standards from the application of the Industrial Chemicals Act by adding an exemption in s11 of the Act.
4. Ensure product approval processes at the TGA and the APVMA recognise the IFRA Standard through appropriate training of assessors and written Standard Operating Procedures.

While we offer these solutions for address the non-recognition of IFRA Standards, there are further regulatory issues with AICIS, TGA and APVMA regulations that may require a more in-depth consideration and regulatory reform. Accord is also engaging with the PC Five Pillars consultation and will provide more information through that submission.

Biosecurity Regulations

Accord did not address biosecurity regulations in our initial submission as we were focused on standards adoption. Our difficulty with biosecurity relates to issues other than standards adoption.

We provide the following that should also be considered if reforms to the biosecurity regulations are to be considered.

Analysis of the issues

Biosecurity regulations for formulated cosmetics, personal care and cleaning products, appear to be focused mostly on applying rigid rules and requesting a lot of paperwork rather than managing risks.

Example 1

The *Biosecurity (Conditionally Non-prohibited Goods) Determination 2021* (CNG Determination) lists some products and conditions where they are not prohibited from import due to their deemed low biosecurity risk. s36 is a list of highly processed and purified chemicals where biosecurity risk is low. If that chemical is further processed, then its biosecurity risk becomes even lower, but because it is technically not listed in the CNG Determination it becomes a prohibited import.

There are many chemicals that are highly purified, refined and low biosecurity risk that are not technically recognised as such in regulation.

Accord has raised this issue many years ago with the Department, but fixing the issue was not deemed a priority.

The biosecurity risk from our sector's products is generally very low. In our experience, regulators can have difficulty accepting that for some products, no regulatory intervention is required.

Example 2

If a cosmetic product that is not a soap contains 20% or more animal derived materials, then the company needs to apply for an import permit. The permit is issued for two years, with reapplication required every two years.

If a permit is NOT required for a cosmetic product i.e. biosecurity risk is low, then the company (either manufacturer or supplier) must produce a Declaration for every cosmetic product imported to state that it does not require a permit. The Declaration must be linked to the products and to the consignment i.e. every import requires a separate Declaration.

A cosmetic product is made to a formulation that does not change from batch to batch. Even if the formulation was tweaked, the biosecurity risk is unlikely to change, as the ingredient 'swaps' would be for a similar ingredient.

It is unclear why so much regulatory burden is imposed for products that are already identified as low risk.

Some biosecurity risk management measures are applied based on the Harmonised System (HS) Code. The HS Codes do not always align with biosecurity risks. Even when there is agreement that the risk is not there, rules are rigidly applied as there is no option to apply appropriate risk judgement.

Example 3

A company imports cosmetic products from the EU and understands that there is a need to manage risks of brown marmorated stink bugs (BMSB).

Cosmetics are exempt from mandatory pesticide treatment requirement, but some cosmetics related items are not e.g. eyebrow pencil sharpeners have the same HS Code as farming implements. Tabletop mirrors have the same HS Code as earthenware. Sometimes a handful of such products are shipped with cosmetics.

Despite the fact that the mirrors and pencil sharpeners come from the same cosmetics warehouse and not a farm shed, and has the same risk profile as cosmetics, the full shipment requires off-shore treatment before entering Australia.

Potential solutions

Biosecurity regulations should focus on risk mitigation.

There has been no clear articulation of risks with cosmetic product imports. We were informed that there was a risk assessment that underpins the administrative requirements imposed on



cosmetics, but it is not public, and the Department has not been willing to share it with the cosmetics industry.

First step to a solution may be to have a common understanding of the biosecurity risks posed by cosmetics, personal care and cleaning products, so that we can work on an appropriate regulation that does not impose a heavy paperwork burden.

About Accord

Accord is the national industry association representing the formulated hygiene, personal care and specialty products. Our members make and market everyday products for use in homes and in our public facilities to keep them clean, hygienic and functioning well (e.g. laundry products, hard surface cleaners, drain unblockers) and personal care products such as soaps, deodorants, sunscreens and fragrances. A list of Accord member companies is available on our website: <http://accord.asn.au/about/members>.

We are a significant industry sector contributing to a prosperous Australian economy. Accord commissioned EY to prepare a State of the Industry Economics Report for the Australian Hygiene, Personal Care and Specialty Products industry¹.

Some topline results based on 2021 economic data:

- Total turnover: \$28.2bn (17th largest industry sector in Australia)
- Industry value-add: \$5.5bn (upstream and downstream value added by our industry to the Australian economy—an indicator of how our sector drives economic activity)
- Jobs: 72,585
- Wages: \$3.5bn
- Import value: \$4.0bn
- Export value: \$1.5bn

The Report identified several other significant observations regarding our industry, including:

- Diversity in production, with businesses operating across all aspects of the supply chain from production through to the retail of final goods.
- Varied client base, with industry products consumed by a wide range of end-users and spanning a wide range of product types from basic consumer necessities to janitorial cleaning supplies to luxury cosmetics.
- Resilience to changes in economic conditions (likely arising from the above two characteristics).
- Higher growth in our industry's value-add than the Australian GDP over the past five years, meaning that our industry added proportionately more value than some other industries in the economy.

Contact for this submission

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¹ Hygiene, Personal Care and Specialty Products industry: Economic State of the Industry report Accord Australia Ltd Final report 31 October 2022: <https://accord.asn.au/about/economic-state-of-the-industry-report/>



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