# Creating a more dynamic and resilient economy inquiry

Questionnaire response 50

**Name:** Accord Australasia

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## 1. Support business investment through corporate tax reform

### 1. What features of the Australian business environment have encouraged or restrained investment over the past 10 years?

The participant did not respond to this question.

### 2. What elements of the corporate tax system encourage and/or discourage investment and risk-taking?

The participant did not respond to this question.

### 3. Which parts of the corporate tax system do you find the hardest, or most time or cost-intensive to comply with? How could the compliance burden of the business/company tax system be reduced?

The participant did not respond to this question.

## 2. Reduce the impact of regulation on business dynamism

### 1. What areas of regulation do you see as enhancing business dynamism and resilience? What are the reasons for your answer?

As the hygiene, personal care and specialty products industry sector, we will be focused on regulations that are specific to our sector's products. There are significant number of regulations and regulators in our sector that overlap in regulatory controls.

Accord's infographic Regulation for Safety and Confidence (attached) provides a summary of the major regulations impacting our sector at the federal level.

As noted in our infographic, regulations can set appropriate safety standards and compliance expectations. When regulation is restrictive only to the extent necessary and the regulator is reliable and predictable in its regulatory administration, it can provide two benefits that support business dynamism and resilience:
1. Set clear boundaries/expectation for industry to innovate in
2. 'Weed out' unsafe or undesirable products and behaviours within an industry, creating a level playing field for companies to compete fairly

In our experience, it is not the full legislation, regulation or even legislative instrument that can be identified as 'good' regulation. Often there are specific requirements that are 'good' that sit next to other requirements that hamper business dynamism and resilience. Sometime (in our experience, increasingly) the intent is 'good', but the execution misses the mark negating any potential benefits.

Accord can provide specific examples if the PC wishes to explore further.

## 2. How has your regulatory burden changed over time?

For our sector, the regulatory burden has grown significantly over the past decade and seemingly growing faster.

There may be several issues at play.

The first issue appears to be most regulators' lack of enthusiasm for regulatory impact analysis. Often we fight for impact analysis before regulatory changes, only to be told they are not necessary, or they are done after the decision is already made which negates the purpose.

Second is the reticence to properly engage with the regulated sector. Some regulators approach public consultation as a tick-box exercise, with no changes made after public consultations regardless of the comments. Some regulators justify going ahead with regulations with significant negative impact on industry productivity, without consideration of cost and benefit, because they held 'extensive consultations' meaning many consultations, rather than good quality consultation or that they have considered and addressed comments received.

When we encounter a good regulator e.g. the National Measurement Institute (NMI), we notice that they embrace regulatory impact analysis as matter of course and is interested in a genuine dialogue with the regulated sectors.

We have multiple examples where poorly thought-through regulatory proposals are either implemented adding cost to already costly regulatory compliance, or fought back by industry requiring significant industry resources, diverting resources that should be going to innovation and growth.

It is difficult to quantify these costs, but examples are provided (below) to give a broad picture of the issues. Accord can provide more details for each of the examples. These are just top 10 that came to mind, rather than an exhaustive list.

Example 1: Requirements that were implemented without an impact assessment nor public consultation resulting in 1400% increase in the application fee and significantly increased data/administrative requirements (additional cost to application fee).

Example 2: Proposal to mitigate 'low-negligible risk' (wording used in the proposal) that would have resulted in deletion of 60% of an important public health product range currently on the market.

Example 3: Decision to allow a cosmetic ingredient commonly used overseas, for use in contact with skin, in Australia, but only if the product is labelled with 'Avoid contact with skin'.

Example 4: Proposal to remove dozens of ingredients from the market, potentially impacting thousands of products, to technically meet a regulatory requirement that has been acknowledged as an unintended regulation by the regulator itself (rather than fix the regulation).

Example 5: 'Out-of-sequence' consultations that impact on the same products that

require companies to formulate, reformulate, test and re-test, to meet each regulatory decision, rather than doing it just once.

Example 6: Mandating, through one legislation, Country of Origin labelling for many formulated imported products, where determining a single 'country of origin' is fraught due to complicated supply chain, then applying through another legislation a penalty clause for false/misleading information if the claim is wrong (because the claim 'does not have to be made' under this second legislation).

Example 7: Vague regulatory wording e.g. 'significant' without clarification, then proposing to clarify with guidance years after the fact, without consulting to understand how it has been interpreted by industry to date, or considering the regulation impact of providing the clarity late.

Example 8: Requiring each regulated entity to search for and read hundreds of reports that the regulator has written, that may or may not exist in public sphere, to understand the regulatory requirements for compliance (rather than clearly stating the regulatory requirement).

Example 9: Requiring a written Declaration for each product, linked to each shipping consignment, that a permit is NOT required for the product (where permit is not required). If a permit is required, then the product needs to be linked to a permit (with its own application and approval processes).

Example 10: Refusing to fully recognise internationally used industry naming standard for chemical names.

3. What regulations do you find time-consuming, overly complex or otherwise constraining business dynamism and resilience? What are the reasons for your answer?

There are several regulations that are impacting our members negatively for various reasons. Below are the top four that are currently taking the most of our regulatory resources.

Industrial chemicals regulations (Industrial Chemicals (General) Regulations 2019) are overly complex, difficult to understand, internally inconsistent and not fit for purpose for formulated consumer products like personal care and cleaning products.

Regulatory compliance cost for sunscreens, especially for innovative sunscreens is unnecessarily high, stifling innovation and increasing cost of goods to consumers.

Agricultural chemicals regulations as they are applied now does not allow innovative low-risk consumer products into the market (no mechanism exists).

The Industrial Chemicals Environment Risk Management Standard (IChEMS) implementation lacks clarity e.g. contains requirements for impurities below detectable levels with current analytical abilities, does not recognise supply chain complexities, does not provide a 'remedy' or 'next steps' for products not meeting the requirements, etc., leading to a lot of misinformation, request for information, etc. that take valuable regulatory resources away from other regulatory work.

However, these may not be the regulations that cost our industry the most: they have not been quantified as there are too many to work on. One of our members is working on quantifying the regulatory cost of Example 6 (under question 5), as this is one of the largest regulatory 'costs' that they have identified for their company.

4. Can you share any specific examples of where you think a regulator has done a good or bad job of understanding and reducing regulatory burden on businesses and why?

We have provided 10 examples under Question 5 that are essentially regulators doing a bad job of reducing regulatory burden on business. If the PC wishes to explore these examples further, we are happy to provide more details.

Accord also has two recent examples of regulators doing a good job of understanding and reducing regulatory burden on businesses.

Example 1: In a recent implementation of unique-device identifiers (UDI), the TGA exempted some medical devices such as adhesive plasters, condoms and other medical devices that are mainly supplied for retail, because of identified high cost of implementation and lack of identifiable benefit. It was very unlikely that anyone would record the UDI for a condom or an adhesive plaster before use, and there is no identifiable benefit even if they did. This 'carve out' saved our industry, and in the end consumers, millions of dollars (Accord is currently gathering data from members for better quantification).

Example 2: The NMI has been working on the National Measurement Law Reforms. The options paper that explained the costs and benefits of each option was developed, public consultation held, summary of public consultation published including the option that would be recommended to Government for adoption. The whole process was measured and well thought through. There were no unexpected surprises in the proposals; there were pre-consultations with stakeholders. The NMI offered to hold further workshops with stakeholders. This reduced the work industry had to do to engage with the reforms.

Cover sheet: Supporting document #1

# Regulation of hygiene, personal care and specialty products

Hygiene, personal care and specialty chemical products are regulated to protect human health, safety and the environment.

Australia has a rigorous and independent regulatory system at the federal, state/territory and local government levels.

accord
hygiene, personal care & specialty products industry

# Regulation for safety & confidence

## Risk assessment

Risk assessment underpins regulation in Australia.

Following risk assessment, controls are put in place to minimise any risks.

**Risk assessment**
Likelihood of harm

**Control measures**
e.g. bans; restrictions on use; workplace controls; classification and labelling; control of emissions to air, water and land; waste disposal restrictions

## Regulators


Regulators assess risk, implement control measures and enforce compliance with these controls.

Regulation impacts every aspect of a chemical product and its ingredients. Multiple regulators are responsible for these aspects.

## Spotlight on: Ingredient and product introduction

| Category | Scope | Examples | Regulatory regime* | | | | | |
|---|---|---|---|---|---|---|---|---|
| | | | TGA[1] | APVMA[2] | FSANZ[3] | AICIS[4] | ACCC[5] | SUSMP[6] |
| Therapeutics | Products that make a therapeutic or health benefit claim | Some mouthwashes, toothpastes, sunscreens, medicated soaps, anti-dandruff shampoos, disinfectants, sanitisers | ✓ | | | | ✓ | ✓ |
| Agvet | Agricultural & veterinary chemical products | Dairy sanitisers for on-farm use, insect repellents for personal use | | ✓ | | | ✓ | ✓ |
| Food & beverage | Chemicals in food & beverage products | Ingredients & additives in food for human consumption, such as processing aids, colourings, vitamins and minerals | | | ✓ | | ✓ | |
| Industrial chemicals | All substances that are not defined as therapeutics, agvet or food & beverage | Ingredients in cosmetics & personal care and cleaning & hygiene products; commodity & industrial-use chemicals, inks, adhesives, paints, glues, solvents, candles etc. | | | | ✓ | ✓ | ✓ |

## Spotlight on: Personal care, cosmetic & household products

**INGREDIENTS**
- Must comply with AICIS introduction rules[4]
- Some are prohibited/have limits in specific products[1,6]

**PRODUCTS**
- Certain products are individually assessed[1,2]
- Products safety and recalls, if needed[1,2,5]
- Australian/International standards apply to some categories, e.g. sunscreens, aerosol containers, child-resistant packaging[7]

**INFORMATION**
- Cosmetic ingredient labelling[5]
- Safety warnings, if needed[6]

## Can we trust the system?

Australia, like other advanced nations, has a robust regulatory system designed to deliver safety for consumers and the environment.

Decisions about risk and safety can be safely entrusted to regulatory scientists and expert scientific bodies.

**Regulatory scientists & expert scientific bodies**

Scientific knowledge
Training
Independence
✓

Informed risk assessments
Appropriate controls
Consumer confidence
✓

## Can the system be improved?

Please refer to our 'Complexity and challenges' infographic

*Regulatory/standards system:
1 TGA: Therapeutic Goods Administration
2 APVMA: Australian Pesticides and Veterinary Medicines Authority
3 FSANZ: Food Standards Australia New Zealand
4 AICIS: Australian Industrial Chemicals Introduction Scheme
5 ACCC: Australian Competition and Consumer Commission
6 Standard for the Uniform Scheduling of Medicines and Poisons
7 Standards Australia and the International Standards Organisation (via various regulatory systems)