

Submission by

Direct Selling Association of New Zealand

to the

Australian Productivity Commission

on

Trans-Tasman Mutual Recognition

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Background Information

The Direct Selling Association of New Zealand (DSA) is an Incorporated Society formed in 1974 to represent the interests of and promote Direct Selling in New Zealand.

The DSA is a founding member of the World Federation of Direct Selling Associations represented in 57 Countries and is a signatory to the World Code of Practice, which sets the benchmark for ethical practices world wide.

In New Zealand the DSA has developed its Code of Practice in conjunction with the Ministry of Consumer Affairs and this was signed in a “Mutual Agreement” with the Minister of Consumer Affairs on 7 March 1998.

This Code governs both our member’s ethical practices and relationships with both Consumers and the Independent Contractors who sell on behalf of our member companies.

The DSA’s membership numbers 37 members covering approximately 90% of companies involved in Direct Selling in New Zealand and by dollar volume around 95% of sales.

The member companies currently have in excess of one hundred and eight thousand (108,000) salespeople selling products in New Zealand by the three main types of Direct Selling. The main types of Direct Selling are Traditional Door to Door, Party Plan and Multi-level or Network marketing.

A recent economic impact study undertaken by the University of Otago and updated this year identified that the industry has a value of 1.99 billion dollars in New Zealand excluding the products which are made in New Zealand for export outside of New Zealand.

Total wholesale sales in New Zealand at wholesale levels in the past financial year were $205 (NZ) million.

SUBMISSION

The DSA is committed to the highest ethics and best practice in our members trading with the public and has been active in the TTMRA process to ensure that we have the ability for our members to trade in the same manner with the same products and the same rules for both New Zealand and Australia.

The DSA endorses the draft report as of the Commission but would add the following comments:

HSNO
The changes to the HSNO legislation by the New Zealand government has moved to lessen our concerns about that legislation however we still see some compliance cost remaining with this regime and should it become a matter for Trans-Tasman harmonisation we would wish to ensure that where possible those costs are stripped out or reduced to the minimum of any TTMRA harmonised system where Australia adopts the GHS and looks to modify NICNAS to a similar model at the New Zealand ERMA.

Should it be just a matter of mutual recognition then the changes by the New Zealand Government must reflect that desire to bring Australian recognition for chemicals and in particular mixtures for labelling and packaging as a "means of compliance". We do not wish to see the current differences in labelling requirements for some products operated under different legislations.

Joint Therapeutic Agency
The proposed Joint Therapeutics Agency remains of considerable concern as this is a significant compliance cost to our Trans-Tasman members and in particular a concern to the multi-national companies who tend see New Zealand and Australia as one market.
Such companies can not see why it is possible to sell products in New Zealand and most other markets in the world but can not sell those same products in Australia when often they are made in the same factory as those products they are allowed to sell in Australia.

The nature of the Australian positive list system for ingredients in products and the hurdles it takes to firstly get new ingredients accepted through the TGA system and finally to get the same acceptance for the finished products poses a huge cost barrier to companies wishing to market in Australia widely accepted products elsewhere in the world.
This includes such products as Sunscreens, skincare products containing SPF ratings, and dietary supplement products.

It is for these reasons; the DSA is concerned that the movement to a joint agency needs to be strongly controlled to prevent bureaucratic capture and empire building rather that to actually address genuine risk to an appropriate level.
The DSA does not oppose in principle the creation of a Joint Agency and can see that it has the potential to benefit both countries in sensible regulations for both medicines and low risk products. It is however important to ensure that the difference between a medicine and a low risk product such as a dietary supplement, medical device or cosmetic products containing SPF above 4, is clearly made and that compliance costs are appropriate to the risk.

The DSA endorses the work being done to sort out the therapeutic advertising rules and structures and supports actively the move to get the existing New Zealand model re-established in Australia (where it originated from some 8 years ago).

The DSA endorses comments made by the CTFA on sunscreens and similar products.

Manner of Sale

The DSA made comment on bringing into the TTMRA and MRA process common commercial laws such as the Fair Trading Acts and the Trade Practices Act which deal with the manner of sale.
We remain of the opinion that this is another area that should not be exempted and that bureaucrats should be encouraged to harmonise such law so that traders across multiple states and Trans-Tasman do not have to revise documentation and advertising materials for each market.
This argument would also lead to a common or merged enforcement body capable of acting on either side of the Tasman in relation to such laws given the already close working relationship between the Commerce Commission and the ACCC.

While we believe that these laws should be the first to be brought out of the exemption and visited under TTMRA and MRA there are a significant number of other laws both in the manner of sale that might equally be looked to for harmonisation.

While this comment has not been picked up in the draft report, it remains an area which we are strongly committed.