Representing **the best** of the plant science industry

CropLife Australia Limited
ABN 29 008 579 048

Level 1, Maddocks House
40 Macquarie Street Barton ACT 2600
Locked Bag 4396 Kingston ACT 2604

Tel +61 2 6273 2733
www.croplife.org.au
Twitter: @CropLifeOz

18 August 2016

Mr Paul Lindwall
Presiding Commissioner
Regulation of Agriculture
Productivity Commission
Locked Bag 2, Collins Street East
Melbourne VIC 8003

Dear Mr Lindwall

RE: PRODUCTIVITY COMMISSION DRAFT REPORT | REGULATION OF AUSTRALIAN AGRICULTURE

On behalf of CropLife Australia I commend the Productivity Commission for the strength and depth of the Draft Report into Regulation of Australian Agriculture.

CropLife **submits** that a truly productive, competitive and sustainable agricultural industry in Australia that improves market returns at the farm gate is not achievable in the long-term without ensuring that regulatory oversight is efficient, effective and where necessary commensurate with the risks, costs and benefits to the broader community.

The following comments on the Draft Report should be read in conjunction with CropLife's original submission to the Inquiry (Submission 14).

Chapter 6: Regulation of technologies and agricultural and veterinary chemicals

6.1 Regulating the evolving world of agricultural technologies

CropLife **strongly supports** Draft Finding 6.1 that there is no economic or health and safety justification for banning the cultivation of genetically modified (GM) organisms. The Commission quite rightly concludes that there is no demonstrated market failure regarding the co-existence of GM and non-GM production systems; and therefore state and territory governments should not have the ability to impose moratoria (p235).

CropLife also **strongly supports** Draft Recommendation 6.1 that the New South Wales, South Australian, Western Australian, Tasmanian and Australian Capital Territory governments should repeal their legislation that puts in place moratoria on the commercial cultivation of GM crops.

CropLife notes that the Victorian government still has GM moratorium legislation on its books (*Control of Genetically Modified Crops Act 2004* (Vic)), despite no Orders currently being in force, and **recommends** the Productivity Commission amend Draft Recommendation 6.1 to also include reference to Victoria.

The Draft Report notes (p231 and Information Request 6.1) that the Commission is seeking further information on whether there is scope for improvement in the overarching regulatory objectives that underpin GM technology assessment. CropLife **submits** that there is an urgent need for improved engagement, understanding and efficacy in gene technology regulatory policy by the responsible federal agency, in this case the Department of Health. Over a number of years, the Department of Health has demonstrated it has neither the competence nor the commitment to engage constructively with stakeholders in regards to gene technology policy.

The Office of the Gene Technology Regulator (OGTR) and Food Standards Australia New Zealand (FSANZ) are technical regulatory agencies who quite rightly maintain a level of separation and independence from the Department of Health. However, when it comes to key policy decisions, such as the regulation of products derived from new breeding techniques (c.f. p241 of Draft Report), the Department of Health has absented itself from the decision-making process, resulting in at least five years and counting of delay, confusion and uncertainty for technology developers in both the public and private sectors.

CropLife **firmly believes** that both the OGTR and FSANZ are robust world-class regulators; and are recognised globally for their expertise in gene technology regulation. This is evidenced by the amount of requests they receive to engage in regulatory capacity building, both in the Asian region and globally.

CropLife **supports** the Commission's view that the scope and extent of regulation should be reduced when developments in science are sufficient to abate uncertainties about the safety of new technologies (p243). In this context, CropLife **submits** the Commission further recommend that plants produced by new breeding techniques which are indistinguishable or similar to plants developed through traditional breeding, or plants derived from natural variation in plant genomes, are regulated in the same way as conventionally bred plants.

CropLife believes the use of the term 'contamination' in relation to the *Marsh v Baxter* case in Box 6.7 (p234) is inappropriate, as this is the language used by activist groups and does not reflect the reality of what occurred. The Supreme Court of Western Australia, the Court of Appeal and the High Court of Australia all held that the Marshes losses were not caused by the incursion of GM canola onto their property; but rather were caused by the incorrect and unjustifiable actions of the Marshes organic certifier, the National Association for Sustainable Agriculture Australia (NASAA).

CropLife **submits** that the Commission considers Recommendation 15 made by the House of Representatives Standing Committee on Agriculture and Industry in its report *Smart Farming: Inquiry into Agricultural Innovation*[1] that "the Department of Agriculture and Water Resources, in cooperation with Standards Australia, update the National Standard for Organic and Bio-Dynamic Produce to introduce a threshold for approved genetically-modified material consistent with comparable international standards."

CropLife is **concerned** by the Commission's reference to the anecdotal statement in regards to co-mingling of GM and non-GM canola during processing made by the Hon Darren West MLC to the WA Legislative Council (Box 6.8, p234). To CropLife's knowledge this statement was never corroborated by the relevant grain handler, and as such should not be given any weight other than third party hearsay in the Commission's considerations. There is also no known evidence to substantiate the $1334 cost of this alleged handling error claimed by Mr West in his statement to WA Parliament.

[1] http://www.aph.gov.au/Parliamentary_Business/Committees/House/Agriculture_and_Industry/Agricultural_innovation/Report accessed 9 August 2016

In regards to Box 6.4 (p229) concerning duplication of regulation between OGTR and the APVMA, CropLife **submits** that a Commission recommendation calling for removal of APVMA regulatory responsibility for pesticides expressed *in planta* would be consistent with the Australian Government's commitment to reducing the cost of unnecessary or inefficient regulation imposed on individuals, business and community organisations.

Also in regards to Box 6.4, CropLife **disagrees** with the proposition made by the Veterinary Medicines and Distributors Association (VMDA) that the assessment of GM veterinary vaccines should solely be undertaken by the APVMA. When it comes to regulation of GMOs, the OGTR is the competent authority, and if indeed there is duplication in this space, then it is the OGTR who should remain the sole Regulator. In the absence of providing concrete evidence of duplication, or actual time and cost disincentives incurred by VDMA members (as opposed to hypotheticals and estimations), the argument made by VMDA in Box 6.4 remains weak.

6.2 Access to agricultural and veterinary chemicals

Draft Recommendation 6.2 recommends that the Australian Pesticides and Veterinary Medicines Authority (APVMA) make greater use of international evidence in its assessment of agricultural and veterinary chemicals (agvet) chemicals (p251). CropLife **supports** this recommendation in principle; however, this support is limited to improving the use and acceptance of assessments undertaken by respected international regulators, not their decisions.

Complete or final registration decisions made by two or more prescribed overseas regulators cannot be accepted without considerable understanding of, and alignment with the regulatory basis that led to the decision. Noting the significant variance in pre- and post-market regulatory activity internationally, this understanding and alignment is very unlikely to be achieved for the vast majority of products regulated by the APVMA.

CropLife **strongly believes** that decisions by overseas regulators should not be accepted as the sole justification for registering or cancelling an agricultural chemical product or active constituent in Australia as there are likely to be considerable components of registration decisions by overseas regulators that cannot be extrapolated for Australian specific conditions.

The Department of Agriculture and Water Resources (DAWR) proposed reforms in this area are not currently appropriate, and as drafted will not deliver the regulatory efficiencies that are desperately needed for the agricultural chemical industry. However, if the scope of the reform is refined accordingly, the proposed DAWR reform could deliver regulatory efficiency for products registered by the APVMA that are of low regulatory concern, such as dairy cleansers and sanitisers, household and home garden products. The exposure and environmental risks these types of products pose in Australia are more likely to be equivalent to those in the overseas jurisdictions.

CropLife **supports** Draft Recommendation 6.3 that Australian, state and territory governments should expedite the implementation of a national control-of-use regime for agvet chemicals, including increased harmonisation of off-label use provisions (p254). CropLife members find it difficult, confusing and costly to meet the multiple regulatory requirements of all the jurisdictions in Australia. Harmonisation of control-of-use in Australia would remove duplication and inconsistencies, and reduce unnecessary costs to industry.

CropLife **submits** however, that a comprehensive, publicly funded program for minor uses of agricultural chemical products is necessary to achieve the implementation of a national control-of-use regime for agvet chemicals. A minor use program would enable registration of chemical products for use on minor and specialty crops, reducing the need for off-label uses and providing a platform on which national harmonisation could occur.

The Government's initial funding of $8 million over four years to the development of a Minor Use and Speciality Crops agricultural chemical program is significant. However, CropLife estimates that total funding of $45 million (including the initial $8 million allocation) would be the likely requirement for crop protection products for the program to deliver the full and genuine economic benefits to Australia.

CropLife is **concerned** with the Productivity Commissions assessment of labelling of agvet chemicals under work health safety regulations (p256). All hazards presented by agricultural chemicals regulated by the APVMA in Australia are already identified, assessed and effectively managed through a world's best practice system involving two main components:

1. Expert hazard and risk assessment resulting in prescribed use instructions – Every agricultural chemical product undergoes a comprehensive expert technical hazard and risk assessment resulting in prescribed use instructions and appropriate and effective safety warnings being applied on the APVMA approved label that reflect the outcomes of that assessment.
2. Safety Data Sheets – Which provide information on the properties of hazardous chemicals and how they affect health and safety in the workplace.[2] Safety Data Sheets are readily available online and legally required to be provided on first supply and on request.

CropLife Australia is a strong advocate of Safety Data Sheets that provide information on the properties of hazardous chemicals and how they affect health and safety in the workplace. Safety Data Sheets and APVMA approved labels complement each other perfectly while not undermining the effectiveness of either system.

CropLife Australia and its international affiliates actively support the implementation of GHS when used in the situations for which it was designed, that being for unregulated hazardous chemicals and for all hazardous chemicals in developing countries that don't have an appropriately funded, independent and technically proficient agricultural chemical regulator. This is not the case for agricultural chemicals in Australia.

The Productivity Commission report of 2008 on chemicals and plastics regulation recommended that GHS should not be adopted in advance of Australia's major trading partners. This recommendation was endorsed by the Council of Australian Governments. Australia's major trading partners, including the United States of America[3], Canada[4] and Japan[5] which have comparative regulatory systems in place for agricultural chemicals, in adopting GHS have specifically exempted agricultural chemicals. Any claim otherwise is deliberately misleading. It is a shame that Australia is, at this stage, unwilling to apply a similar pragmatic, sensible and logical approach.

In direct contradiction to statements made at the Senate Education and Employment Legislation Committee Estimates on 22 October 2015[6], two examples purporting to be evidence of incidences where a lack of GHS statements directly led to WHS incidences were provided by Safe Work Australia (SWA) in response to questions on notice submitted by Senator Leyonhjelm during the 2015-2016 Additional Estimates. These two examples unfortunately replicated in the Draft Report (Box 6.16, p256) highlight the poor basis regarding the implementation of GHS statements on APVMA approved agvet chemicals.

Firstly, carbon disulphide has not been registered in Australia for 14 years and if it were to be registered today, the APVMA would require flammability signal words.

The second example involving the herbicide Hotshot can only be described as scraping the bottom of the barrel. A bystander 500 metres from a spray activity having an allergic reaction to something does not remotely equate to an incident that could have been avoided with the introduction of GHS hazard and precautionary statements. The fact that the incident report compiled by emergency services shows both the bystander and emergency services sought and located with ease the relevant SDS shows that the current system is adequate and works well. How SWA could consider this as an example that justifies the introduction of GHS statements on APVMA approved labels is beyond belief, and further highlights how misguided and belligerently obtuse the implementation of this unnecessary regulatory burden has been.

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2 Safe Work Australia website, sourced 1 August 2016, http://www.safeworkaustralia.gov.au/sites/swa/whs-information/hazardous-chemicals/sds/pages/sds

3 United States Department of Labor website, sourced 1 August 2016, https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=10099

4 Canada Justice Laws website, sourced 1 August 2016, http://laws-lois.justice.gc.ca/eng/acts/H-3/page-8.html#h-22

5 Ministry of Health, Labour and Welfare website, sourced 1 August 2016, http://www.mhlw.go.jp/topics/bukyoku/roudou/ghs/dl/aramashi.pdf

6 Senate Education and Employment Legislation Committee estimates, Hansard reference: 22 Oct 2015 pg. 49-50

CropLife **strongly supports** the Productivity Commission recommending that SWA reinstate the recognition that APVMA approved labels comply with WHS regulations. Failing that, SWA should delay the implementation of GHS on agvet chemical labels to enable genuine consultation, appropriate critiquing and analysis to occur and therefore allow the introduction of a solution that satisfies WHS regulators, the APVMA and relevant industry stakeholders without unnecessary regulatory burden. Additional compelling arguments and further detail is provided for the Commissions consideration in the CropLife submission to the extraordinary SWA members meeting held on 17 August 2016, attached as an addendum.

CropLife **supports** the Australian Government's commitment in the Agricultural Competitiveness White Paper to improve access to agvet chemicals while maintaining adequate protections for the health and safety of people, animals and the environment[7] (p257). However, defined efficiency gains from the last tranche of reforms have not yet been realised and the APVMA is on the verge of being overwhelmed. As such, CropLife contends that only necessary legislative fixes and reforms that will drive improved efficiency should be considered at this stage.

CropLife **strongly supports** the regulation of agricultural chemicals in line with the important principle of regulation being proportionate to risk. The Risk Profiling Tool currently being developed by the APVMA and the University of Melbourne's Centre of Excellence for Biosecurity Risk Analysis intends to develop a risk framework to better align regulatory risk with an appropriate level of regulatory oversight. Ensuring that the legislative tools are available for the APVMA to enact the outcomes from this work, such as self-registration for products of low regulatory concern, is of the utmost importance. This work will also enable the APVMA to better focus its regulatory activities on the assessment and registration of products that pose greater regulatory concern. The introduction of provisional registration would enable Australian farmers' access to products while outstanding data requirements addressing lower regulatory risk requirements are completed.

Chapter 9: Food Regulation

CropLife **strongly supports** the Productivity Commission's finding that the case for mandatory labelling of GM foods is weak. Likewise, CropLife **strongly supports** Draft Recommendation 9.1 that Food Standards Australia New Zealand (FSANZ) should remove the requirement in the Food Standards Code to label genetically modified foods.

CropLIfe **acknowledges** the submission on the Draft Report made by FSANZ (DR98) noting that as there is relevant policy guidance, any change in GM labelling policy is not, in the first instance, a matter for FSANZ but one for ministers to consider. CropLife **supports** the Productivity Commission amending Draft Recommendation 9.1 to call on the Australia New Zealand Ministerial Forum for Food Regulation to remove the requirement in the Food Standards Code to label genetically modified foods.

CropLife **agrees** with the Commission that it is difficult to justify a mandatory labelling regime on the basis of consumer concerns, given that approved GM foods have been assessed by Regulators to be as safe as conventional foods.

CropLife notes that there has been significant opposition to Draft Recommendation 9.1 promulgated by a campaign funded by the Dutch-based multinational Friends of the Earth and local anti-science front group Gene Ethics. Unsurprisingly, the arguments put forward by these groups to retain mandatory GM food labels in Australia are intellectually weak from both a scientific and market forces perspective.

Labelling of GM food has nothing to do with the health or safety of the food. As noted by the Commission, all approved GM foods sold in Australia have been rigorously assessed and found to be safe by the responsible Regulator: FSANZ. For groups such as Friends of the Earth or Gene Ethics to suggest otherwise is disingenuous; and serves no purpose other than to feed internet-led conspiracy theories about 'big government'.

[7] Australian Government Department Agricultural Competitiveness White Paper website, sourced 15 August 2016, http://agwhitepaper.agriculture.gov.au/

Mandatory labelling for non-health reasons can imply a health concern and can reinforce misconceptions in the community (which is exactly what we have seen happen in the campaign against Draft Recommendation 9.1). CropLife **supports** a food company's choices to voluntarily label food products noting certain attributes (i.e. low fat) based on their customers preferences and providing the label is truthful and not misleading.

Voluntary labelling permits food manufacturers to provide what they consider to be adequate information relating to food in-line with customer purchasing behaviour.

Additional Comments

CropLife would also like to respond to specific issues raised by anti-science activist groups at public hearings in response to the Draft Report.

The Precautionary Principle
A precautionary approach is an important concept in the regulation, marketing and use of crop biotechnology and crop protection products. However, a precautionary approach should not be confused with the 'precautionary principle'. There is a clear distinction between the two terms and CropLife **does not support** the 'precautionary principle', a term that is invoked by anti-science groups to delay, inhibit or stop altogether the introduction of useful and beneficial products and technologies, even when such introduction is supported by scientific evidence and has been reviewed an approved by the relevant regulatory authorities.

CropLife **submits** that rigorous and robust science-based approval systems, such as we have in Australia, provide the best regulatory approach for crop biotechnology and crop protection products, and that these existing approval systems are already intrinsically precautionary in nature. Science-based risk assessment determines whether a product may warrant the implementation of management measures (i.e. label instructions on a crop protection product; or licence conditions on a GM crop) as part of the risk management process.

Trade of GM crops in the European Union
The EU is a major importer of GM commodities from other parts of the world. Each year the EU imports over 33 million tonnes of genetically modified soy beans, totalling more than 60 kg for each of its 500 million citizens. They are primarily used as animal feed to produce meat, dairy and other higher value products. European livestock farmers depend on these imports heavily since there is no realistic alternative: the production of soy beans in the EU accounts to 1.7 million tonnes, less than 5% of EU need.

Seralini 'lumpy rat' study
The infamous 'lumpy rat' study led by Giles Eric Seralini was first published in the Journal *Food and Chemical Toxicology* in September 2012. It was later retracted by the Journal in November 2013. The conclusions of the study were emphatically rejected by FSANZ, the European Food Safety Authority, the German Federal Institute for Risk Assessment and Health Canada, as well as the world's leading scientific experts in the field. FSANZ concluded at the time "On the basis of the many scientific deficiencies identified in the study, FSANZ does not accept the conclusions made by the authors and has therefore found no justification to reconsider the safety of NK603 corn, originally approved in 2002."

Re-approval and re-registration of agricultural chemicals
Re-approval and re-registration would have applied increases in regulatory burden on applicants, registrants and approval holders that would increase the total administrative and regulatory costs of the registration system without providing any meaningful improvement. CropLife **supports** the existing APVMA arrangements that are in place for identifying and prioritising existing chemicals requiring review.

Considering the proposed re-approval and re-registration regime for agricultural chemicals was never actually implemented, it is hard to believe the claim made by Gene Ethics at the Melbourne public hearing that chemical regulation 'has gone backwards' as a result.

Conclusion

Crop protection products and crop biotechnologies are crucial to modern farming. It is essential that government works with industry to reduce unnecessary 'red tape' or regulation that is not commensurate with risk and creates nationally harmonised regulations and legislation to maintain the ability for Australian farmers to access the latest innovative tools in plant science.

Meeting the challenges presented by sustainably increasing food production to meet growing global demand will require science-based regulatory policies that support all farming production systems, including existing and future production tools.

It is with great pleasure that I look forward to reading the Final Report of this inquiry. Please to do not hesitate to contact me or one of CropLife's Policy Directors (Osman Mewett – Crop Biotechnology Policy; or Alastair James – Agricultural Chemical Policy) should you require further information or have any questions about any aspect of this submission.

Yours sincerely

Matthew Cossey
Chief Executive Officer

Representing **the best** of the plant science industry

CropLife AUSTRALIA

SUBMISSION FOR THE EXTRAODINARY MEETING OF SAFE WORK AUSTRALIA MEMBERS

ON

REINSTATING RECOGNITION OF APVMA AGRICULTURAL CHEMICAL LABELS AS MEETING WHS REQUIREMENTS

1 AUGUST 2016

CropLife Australia Limited
ABN 29 008 579 048
Level 1, Maddocks House
40 Macquarie Street Barton ACT 2600
Locked Bag 4396 Kingston ACT 2604

Tel 02 6273 2733
www.croplife.org.au
Twitter: @CropLifeOZ

EXECUTIVE SUMMARY

Agricultural chemicals in Australia are regulated under a nationally harmonised system managed by the government-appointed Australian Pesticides and Veterinary Medicines Authority (APVMA) under the *Agricultural and Veterinary Chemicals Code Act 1994 (Cth)*.The APVMA is a national statutory agency with responsibility, through the Council of Australian Governments, for the National Registration Scheme that provides for the registration of agricultural and veterinary chemicals[1]. Previously each State and Territory government had its own system of registration.

All hazards presented by agricultural chemicals regulated by the APVMA in Australia are already identified, assessed and effectively managed through a world's best practice system involving two main components:

1. Expert hazard and risk assessment resulting in prescribed use instructions – Every agricultural chemical product undergoes a comprehensive expert technical hazard and risk assessment resulting in prescribed use instructions and appropriate and effective safety warnings being applied on the APVMA approved label that reflect the outcomes of that assessment.
2. Safety Data Sheets – Which provide information on the properties of hazardous chemicals and how they affect health and safety in the workplace.[2] Safety Data Sheets are readily available online and legally required to be provided on first supply and on request.

CropLife Australia is a strong advocate of Safety Data Sheets that provide information on the properties of hazardous chemicals and how they affect health and safety in the workplace. Safety Data Sheets and APVMA approved labels complement each other perfectly while not undermining the effectiveness of either system.

The introduction of Safe Work Australia's (SWA) *Model WHS Regulations 2011* removes the current recognition that APVMA approved agricultural chemical labels are appropriately labelled to meet WHS requirements. From 1 January 2017 agricultural chemical product labels must also include additional and unnecessary hazard and precautionary statements as stipulated by the Globally Harmonized System of Classification and Labelling of Chemicals (GHS).

CropLife Australia and its international affiliates actively support the implementation of GHS when used in the situations for which it was designed, that being for unregulated hazardous chemicals and for all hazardous chemicals in developing countries that don't have an appropriately funded, independent and technically proficient agricultural chemical regulator. This is not the case for agricultural chemicals in Australia.

The introduction of additional and unnecessary GHS hazard and precautionary statements:

- diminishes and dilutes the effectiveness and integrity of both APVMA approved labels and Safety Data Sheets, currently considered a world's best practice system
- creates a very real risk of a WHS incident resulting from workers being misguided and confused by two different sets of incomplete safety directions
- completely undermines the proven worker health and safety system built on the basis of Safety Data Sheets. In an industry where there is no evidence of a problem that needed to be fixed, SWA's actions inherently increase the risk of a problem being created, and
- imposes a significantly high cost on the agriculture industry in Australia, estimated at more than $46 million according to an independent cost analysis and report (attached).

[1] Intergovernmental Agreement (IGA) to COAG, Department of Agriculture and Water Resources website, sourced 1 August 2016, http://www.agriculture.gov.au/ag-farm-food/ag-vet-chemicals/domestic-policy/history-of-coag-reforms/iga-coag

[2] http://www.safeworkaustralia.gov.au/sites/swa/whs-information/hazardous-chemicals/sds/pages/sds

With an implementation program beset by flaws and erroneous advice, urgent amendment to the *Model WHS Regulations 2011* is required to reinstate the recognition that registered APVMA agricultural chemical products are appropriately labelled to meet WHS requirements. Remaining concerns held by the SWA Board can be addressed by the APVMA labelling process following appropriate discussion with the APVMA, the Department of Agriculture and Water Resources and relevant industry stakeholders. Without this outcome, the unnecessary and additional GHS hazard and precautionary statements on agricultural chemicals only serves to compromise and undermine the standing of the agricultural chemical regulatory system and will be considered the cause of any future WHS incident resulting from confusion leading to non-label use.

1. Crop protection products are crucial for the delivery of safe, affordable and nutritious food, feed and fibre

The plant science industry's crop protection products include fungicides, herbicides and insecticides (pesticides) that are critical to maintaining and improving Australia's agricultural productivity and are crucial tools for environmental land managers in protecting Australia's native flora. According to a Deloitte Access Economics report released in 2013, '*Economic activity attributable to crop protection products',* it is estimated that up to $17.6 billion of Australian agricultural output (or 68 per cent of the total value of crop production) is attributable to the use of crop protection products.

In 1995, it took the assessment of 52,500 compounds to develop one new effective crop protection chemical active constituent. It now requires the assessment of more than 140,000 compounds and expenditure of more than US$286 million over an 11 year period to bring just one new successful crop protection product to the market. Without access to these tools, farmers may potentially lose as much as 50 per cent of their annual production to pests, weeds and diseases. Each of these products is rigorously assessed by the Australian Pesticides and Veterinary Medicines Authority (APVMA), using world's best practice hazard and risk assessment to ensure they present no unacceptable risk to users, consumers and the environment.

Crop protection products must be used sparingly, carefully and responsibly. The responsible use of crop protection products must be supported by a regulatory scheme that maximises the benefits associated with their responsible use, while minimising the costs from excessive, inappropriate and ineffective regulation. Farmers need these products because of the benefits they provide to their businesses and consumers need these products to ensure they have access to safe, affordable and nutritional food. These products also enable land and environment managers, such as parks and wildlife services, to protect Australia's native flora and fauna from noxious weeds and invasive pests.

While it is important for governments to provide for appropriate and rigorous regulation of crop protection products, any regulation must be mindful of the effects that poorly considered, duplicative and excessive regulation will have through increasing production costs, discouraging investment and innovation, while not delivering any improvement in safety, health or environmental outcomes. Furthermore, it is imperative that the introduction of such regulation is avoided when the regulation itself poses a risk of undermining existing worker health and safety protections.

It is imperative that the regulation of crop protection products in Australia is efficient and effective to ensure Australian farmers have access to the innovative tools the plant science industry provides. This will improve the ability of Australia to be internationally competitive and productive. Unnecessary and confusing duplication of already highly-regulated agricultural and veterinary chemical labels puts at risk farmer and other agricultural worker health and safety, as well as unfairly imposing an extra cost not inflicted on many of our major trading partners.

2. Additional labelling requirements for agricultural chemicals are unnecessary and opposed by all relevant stakeholders

Agricultural chemicals in Australia are already effectively regulated by the Australian Pesticides and Veterinary Medicines Authority (APVMA) under the *Agricultural and Veterinary Chemicals Code Act 1994* (AgVet Code). Each product undergoes a comprehensive expert technical hazard and risk assessment and safety warnings are applied that reflect the outcomes of that assessment. Currently, the *National Occupational Health and Safety Commission National Code of Practice for the labelling of workplace substances* (NOHSC labelling Code) recognises APVMA approved agricultural chemical labels as being appropriately labelled to meet WHS requirements.

Safe Work Australia's (SWA) *Model WHS Regulations 2011* (WHS Regulations), however, remove this recognition and from 1 January 2017 agricultural chemical product labels must also include additional and unnecessary hazard and precautionary statements as stipulated by the Globally Harmonized System of Classification and Labelling of Chemicals (GHS). This is irrespective of whether or not prescribed use mitigates the risk of the hazard to non-existent or negligible levels.

These additional labelling requirements for agricultural chemicals are opposed by the responsible government regulator, the APVMA; the relevant policy department, the Department of Agriculture and Water Resources; the industry body that represents the majority of agricultural chemical users, the National Farmers' Federation, as well as all state farmer organisations and the industry bodies that represent the manufacturers of products affected by the regulations, CropLife Australia, the Plastics and Chemicals Industries Association and Accord Australasia.

The National Farmers' Federation, in their submission to the Department of Agriculture and Water Resources' recent review into the duplication between agricultural and veterinary chemical and work health and safety legislation, made the following statement:

> *The introduction of hazard labelling is unnecessary given the sophisticated approach to managing the risks associated with these chemicals that is already in place.*

It is concerning that despite this overwhelming well-founded criticism from all relevant stakeholders, without urgent regulatory amendment the unnecessary, confusing and potentially dangerous duplication of agricultural chemical labelling regulations will be implemented on 1 January 2017. The farcical nature of the stakeholder consultation undertaken by the Department of Employment, in addition to the apparent lack of a balanced, comprehensive briefing to the Safe Work Australia Board on the complexities of this issue explains how the agriculture industry is now facing the largest undermining of its nationally harmonised regulatory system and worker health and safety processes to date.

3. Australia's agricultural chemical labelling regulatory system is globally recognised as world's best practice regulation

The APVMA is a globally respected, scientifically and technically competent and rigorous regulator of agricultural chemicals. The Authority is actively engaged in programs of the Organisation for Economic Co-operation and Development to share assessment of new agricultural chemicals through international partnerships with pesticide regulators in the United States, Canada and the United Kingdom. The Authority's expertise and scientific credibility are well recognised within Australia, throughout the Asia Pacific and globally. CropLife has from time to time criticised the APVMA publicly, however, that criticism has always been specifically restricted to the regulator's efficiency, and not its technical competencies.

Agricultural chemicals in Australia are already effectively regulated by the APVMA under the AgVet Code. The APVMA's expert technical hazard and risk assessment results in relevant and meaningful safety warnings on the approved label for hazards that have been evaluated to present an actual risk. As mandated by the AgVet Code (refer to below excerpt), before a chemical product can be registered and made available to the Australian market, it must meet strict safety criteria, ensuring that it does not present an undue hazard to the safety of people exposed to it during its handling.

5A Definition of *meets the safety criteria*

(1) An active constituent or chemical product ***meets the safety criteria*** if use of the constituent or product, in accordance with any instructions approved, or to be approved, by the APVMA for the constituent or product or contained in an established standard:

(a) is not, or would not be, an undue hazard to the safety of people exposed to it during its handling[3] or people using anything containing its residues; and

(b) is not, or would not be, likely to have an effect that is harmful to human beings; and

(c) is not, or would not be, likely to have an unintended effect that is harmful to animals, plants or things or to the environment.[4] (emphasis added)

A chemical product label must also meet strict labelling criteria as mandated by the AgVet Code, ensuring the label contains adequate instructions to ensure safe handling of the product before it can be registered:

5D Definition of *meets the labelling criteria*

(1) A label for containers for a chemical product ***meets the labelling criteria*** if the label contains adequate instructions relating to such of the following as are appropriate:

(a) the circumstances in which the product should be used;
(b) how the product should be used;
(c) the times when the product should be used;
(d) the frequency of the use of the product;
(e) the withholding period after the use of the product;
(f) the re-entry period after the use of the product;
(g) the disposal of the product when it is no longer required;
(h) the disposal of containers of the product;
(i) the safe handling of the product and first aid in the event of an accident caused by the handling of the product;
(j) any matters prescribed by the regulations.[5] (emphasis added)

Hazard and precautionary statements for intrinsic hazards, such as carcinogenic or combustible, can be completely irrelevant after risk mitigation through prescribed use removing the risk of the hazard. The APVMA prescribed use is the only way APVMA approved products can be legally used, with compliance activities undertaken by state government officials under Control of Use legislation. However, these hazards are appropriately detailed in the associated Safety Data Sheet (SDS) which is readily available online and legally required to be provided by manufacturers on first supply and on request.

The existing WHS system incorporating both the APVMA approved label resulting from a comprehensive hazard and risk assessment, together with the SDS to provide additional intrinsic hazard information, has been proven to effectively protect worker health and safety. This rigorous process enforced by the AgVet Code is fundamental to the APVMA's ability to deliver genuine WHS outcomes for the products they regulate. This is why any introduction of additional regulation that undermines this process must be rejected by any person or organisation that seeks to deliver better WHS outcomes.

Including unnecessary GHS hazard and precautionary statements on APVMA approved labels only serves to dilute the specific safe use instructions for users of agvet chemicals, delivering the opposite outcome to that intended by SWA, by inherently increasing risk to worker health and safety.

[3] Handling includes transportation, storage, processing, use or disposal according to section 3, Definitions, of the *Agricultural and Veterinary Chemicals Code Act 1994*

[4] *Agricultural and Veterinary Chemicals Code Act 1994*, page 28

[5] *Agricultural and Veterinary Chemicals Code Act 1994*, page 31-32

4. Australia's agricultural chemicals and pharmaceutical chemicals are both regulated by specific, independent, technically proficient regulators registering products with comprehensive risk-based labelling

The Therapeutic Goods Administration (TGA) approved labels for pharmaceutical chemicals received and continues to receive the same recognition previously received by APVMA approved labels. Agricultural and pharmaceutical chemicals are both tightly regulated by dedicated agencies, with hazards identified, risks assessed and approved uses prescribed on the label.

We note that when consultation about changes to WHS regulations began before 2009, the Department of Health appropriately alerted SWA that the pharmaceutical chemical sector was already effectively regulated by the TGA, resulting in the ongoing recognition of TGA approved labels. Had the Department of Agriculture and Water Resources at the time made similar representations, APVMA approved labels would be receiving the same level of recognition. However, it is acknowledged that the Department of Agriculture and Water Resources has since made known its strong support of APVMA approved labels being appropriately labelled to meet WHS requirements.

When defending the policy rationale, SWA have claimed there are two differences between TGA and the APVMA in relation to their respective registered products:

1. That pharmaceutical chemicals are prescribed by doctors; and
2. That agricultural chemicals are largely sold in larger volumes than pharmaceutical chemicals.

To counter the first point, users of crop protection products, under the Control of Use legislation in some states are required to be qualified to use agricultural chemicals in a farming situation. In order to become qualified in NSW, training must be undertaken at Australian Quality Framework (AQF) Level 3, except that where a user has language and literacy issues preventing them from fulfilling these requirements they may be considered competent for the purpose of the regulation if they have completed training at the AQF 2 Level.[6]

Likewise in Victoria, mandatory training is required to hold an Agricultural Chemical Users Permit (ACUP), which is mandatory for the application of restricted use chemicals (Schedule 7 Poisons – Dangerous Poisons or products containing atrazine, metham sodium or ester formulations of 2,4-D, 2,4DB, MPCA or triclopyr).[7] It is estimated that approximately 18,000 people undertake accredited chemical user training in NSW annually and that there are over 18,000 ACUP holders in Victoria.[8]

These training requirements ensure that workers applying agricultural chemicals in the farming workplace have the requisite understanding and skills to undertake the application in accordance with the science-based risk control measures approved by the APVMA. This type of training has been found to correlate with the competent implementation of label safety directions.[9] Under the Intergovernmental Agreement for the single National Regulatory Framework for agricultural and veterinary chemicals, all state jurisdictions and the Commonwealth have agreed to develop consistent regulation on the minimum competency requirements for chemical users.

The accreditation and training program provided by Agsafe delivers a national standard to assist compliance with government regulations for the storage, handling, transport and provision of technical advice for agricultural chemicals. Agsafe's nationally recognised training ensures that all individuals who sell or offer advice on agvet chemicals follow the principles of safe, effective and legal use and provide expert advice to ensure that these chemicals are stored, handled and transported safely.

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6 NSW Office of Environment and Heritage, 'NSW - Pesticides Regulation 2009, Clause 9 (1) (d) (ii) and Schedule 1 – Notice of Approved Units of Competency', in NSW, *Government Gazette,* No. 59, 17 June 2011, p 4481.

7 *Agricultural and Veterinary Chemicals (Control of Use) Act 1992* (VIC) sections 28-29; Schedule 1.

8 NSW Department of Environment and Climate Change, 'Regulatory Impact Statement: Proposed Pesticides Regulation 2009' (February 2009) 23; Victorian Department of Primary Industries, 'Proposed Agricultural and Veterinary Chemicals (Control of Use) Regulations 2007: Regulatory Impact Statement' (April 2007) 7; 14.

9 See E MacFarlane, A Chapman, G Beneke, J Meaklim, M Sim and J McNeil, ' Training and other predictors of personal protective equipment use in Australian grain farmers using pesticides', *Journal of Occupational and Environmental Medicine*, 65 (2008) 141; NSW Department of Environment and Climate Change, 'Regulatory Impact Statement: Proposed Pesticides Regulation 2009' (February 2009) 34.

With more than 1400 members across Australia and approximately 2000 people trained from the point of manufacture right through to the point of sale every year, Agsafe ensures that everyone who purchases an agricultural chemical product from an Agsafe accredited member is prescribed the best, safest use of the agricultural chemical product.

The argument of volume of agricultural chemical products sold compared to their medicinal counterpart is ignorant of the fact that quantity in use does not equate to an increase of risk or hazard, if used according to label directions. Volume of a chemical, whether agricultural or medicinal, is an irrelevant consideration in terms of safe use. Whereas the hazard the chemical poses is, hence the additional restrictions placed on the more hazardous chemicals such as those implemented to restrict access to cold and flu tablets containing pseudoephedrine and Schedule 7 poisons.

5. Flawed policy rationale led to the removal of the recognition that APVMA approved labels complied with WHS regulations

The Regulatory Impact Statement: Proposed Revisions to the National OHS Framework for the Control of Workplace Hazardous Substances and Dangerous Goods (WHS Chemical RIS) completely ignores the APVMA's valid arguments that the risk-based information in the agvet labels is adequate to protect the safety of end-users of the products.

> *The APVMA argues that the risk-based information in the agvet labels is adequate to protect the safety of end-users of the products. It considers that addition of all GHS information to the label would be unnecessary, and that it would not only increase the costs of registration and labelling for suppliers, but would lead to confusion among users and hence reduced adherence to the instructions and increased health costs.*[10]

The APVMA also argued that the system it administers provides adequate protection to workers using or handling agvet chemicals because:

- *Hazard information including that related to chronic hazards, is currently included on approved labels where relevant;*
- *The intention was for the label and the MSDS would work in synergy to provide adequate information through the supply chain cycle; and*
- *The AgVet Code mandates that products must be used according to authorised instructions*[11]

All these arguments were also ignored.

The rationale for ignoring these valid arguments provided in the WHS Chemicals RIS includes references to the International Labour Organization Chemicals Convention C170 (the Convention) and the principle that workers have the 'right to know' the hazards of the product and that this is communicated on the label. Currently, the NOHSC labelling Code recognises APVMA approved agricultural chemical labels as being appropriately labelled to meet WHS requirements. This recognition was made on the accurate basis that the National Registration System for agvet chemicals adequately protects the health and safety of workers using agvet chemicals.

CropLife supports the principle that a worker has the 'right to know' the hazards of a product, but strongly contends that this is achieved through easy access to SDSs and the APVMA approved label. CropLife does, however, question how the principles of the Convention were used as the basis for existing workplace hazardous substances and dangerous goods frameworks when the Australian Government has not seen fit to support the Convention, and is not therefore a signatory.

The WHS Chemical RIS also completely ignores the robust risk control measures developed as part of the APVMA's expert technical hazard and risk assessment, and the implementation of these risk control measures by farmers. Voluntary training and the introduction of the compulsory requirement under state control of use legislation to undertake accredited chemical use training in some states ensure good agricultural practice is undertaken and the risk controls prescribed by the APVMA are implemented.

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10 Regulatory Impact Statement: Proposed Revisions to the National OHS Framework for the Control of Workplace Hazardous Substances and Dangerous Goods (January 2010)

11 ibid

To use NSW as an example, under NSW Control of Use Legislation, the Pesticides Act 1999 (NSW), it is mandatory for users of agricultural chemicals in the farming workplace to:

- Read and follow the APVMA approved label or permit use requirements.[12]
- Have undertaken mandatory training every 5 years.[13]
- Maintain records of chemical application.[14]

The WHS Chemicals RIS further identified permitted off-label use as an example of where APVMA approved labelling may inadequately manage the WHS risks to chemical users. This characterisation has not adequately considered the regulatory frameworks that permit off-label use. In NSW off-label use is only allowable where it is undertaken in accordance with a permit issued by the APVMA.[15] While in other jurisdictions such as Victoria off-label use and off permit use for chemicals other than restricted use chemicals is permitted.[16] However, this is subject to the application not exceeding the maximum label rate, maximum frequency of application and complying with specific label statements prohibiting use.

While laws enabling conditional off-label use require the operator to take total responsibility for worker health and safety issues associated with the use, the restriction to maximum label rates and frequency means that the approved safety directions will continue to manage WHS risks in line with the satisfaction formed by the APVMA.

Australia's tiered system of pre-market assessment and control of use regulation adequately manages the risks to health and safety posed by the use of agvet products. Evidence of this ability is seen in the strong rates of compliance with Maximum Residue Limits (MRLs) witnessed in the grains and horticulture program's National Residue Survey (NRS), which demonstrates compliance with Australian standards 99.2 per cent and 99.5 per cent of the time respectively.[17] While the NRS compliance statistics monitor the ability of the system to deliver produce that is compliant with MRLs, these outcomes can only be delivered by compliance with the label directions.

6. GHS has not been implemented by Australia's major trading partners; the Productivity Commission recommended that Australia not adopt GHS ahead of our major trading partners

CropLife through its international affiliate, CropLife International, has been actively involved in the development and support of GHS for its intended purpose from its inception and still continues its involvement within the relevant United Nations sub-committee undertaking further revision to the 'Purple Book', as it is colloquially referred to, as necessary. GHS was never designed to be imposed in an already effectively regulated environment such as we have in Australia. It is however, important to note that GHS is appropriate for unregulated hazardous chemicals and for all hazardous chemicals in developing countries that don't have an appropriately funded, independent and technically proficient agricultural chemical regulator (i.e. Burkina Faso, Turkey and Thailand).

12 *Pesticides Act 1999* (NSW) s 14-15.
13 *Pesticides Regulation 2009* (NSW) cl 9-10.
14 *Pesticides Regulation 2009* (NSW) cl 13-15.
15 *Pesticides Act 1999* (NSW) section 15.
16 Restricted chemicals may be used off-label if under a permit issued in accordance with the *Agricultural and Veterinary Chemicals (Control of Use) Act 1992* (VIC).
17 Department of Agriculture and Water Resources website, sourced 1 August 2016, http://www.agriculture.gov.au/ag-farm-food/food/nrs/nrs-results-publications/industry-brochures-2013-14/results-2013-14

The Productivity Commission report of 2008 on chemicals and plastics regulation recommended that GHS should not be adopted in advance of Australia's major trading partners. This recommendation was endorsed by the Council of Australian Governments. Australia's major trading partners, including the United States of America[18], Canada[19] and Japan[20] which have comparative regulatory systems in place for agricultural chemicals, in adopting GHS have specifically exempted agricultural chemicals. Any claim otherwise is deliberately misleading. It is a shame that Australia is, at this stage, unwilling to apply a similar pragmatic, sensible and logical approach.

From all international assessments, the implementation of GHS in New Zealand can only be considered a complete failure. GHS hazard and precautionary statements are not strictly enforced in New Zealand due to the already existing and similar labelling requirements enforced by the New Zealand Environmental Protection Authority (NZEPA). ***Similarly to the current risk-based labelling approach used by the APVMA, the NZEPA has chosen to not require specific GHS hazard and precautionary statements in situations where the risk has been able to be mitigated to a negligible level.*** This should stand as an example of why Australia should not impose a GHS hazard and precautionary statement on already fully regulated agricultural chemicals.

7. The confusing labelling requirements increases risk to worker health and safety by undermining existing regulations that ensure the primacy of safe use instructions

GHS is a default hazard-based system that does not reflect the outcomes of an expert assessment undertaken by an independent, technically proficient regulator. The WHS Regulations introduce unnecessary regulatory burden, enforcing additional hazard and precautionary statements on agricultural and veterinary (agvet) chemical labels for intrinsic hazards where a technically proficient risk assessment has determined there is no risk, or the risk is negligible.

The APVMA's expert technical risk assessment means that intrinsic hazards associated with a particular chemical product of which there is no or negligible risk are sensibly not included on the approved label. Hazard and precautionary statements for intrinsic hazards such as carcinogenic or combustible can be completely irrelevant after risk mitigation through prescribed use removes the risk of the hazard. Including these unnecessary statements on APVMA approved labels only serves to dilute the specific safe use instructions for users of agvet chemicals, delivering the opposite to that intended by SWA, by inherently increasing risk to worker health and safety.

Having two separated sets of instructions on the one label (APVMA approved Safety Directions and GHS hazard and precautionary statements) delivers a poorer communication outcome for users. Disastrously, the GHS statements could stand out more than the APVMA approved Safety Directions, leaving the possibility that the user will only read the GHS statement, which in many cases is incomplete because of the overlap with the APVMA approved Safety Directions.

The remaining GHS statements following removal of those that duplicate or conflict with the APVMA approved Safety Directions, will only communicate the intrinsic hazards of a product of which there is non-existent or negligible risk. If users read this after having already had years of incident-free use experience, they will begin to discount important APVMA approved label warnings and user instructions, inherently increasing risk to worker health and safety.

[18] United States Department of Labor website, sourced 1 August 2016, https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=10099

[19] Canada Justice Laws website, sourced 1 August 2016, http://laws-lois.justice.gc.ca/eng/acts/H-3/page-8.html#h-22

[20] Ministry of Health, Labour and Welfare website, sourced 1 August 2016, http://www.mhlw.go.jp/topics/bukyoku/roudou/ghs/dl/aramashi.pdf

8. The current regulatory system works – there has never been an incident where the addition of a GHS hazard and precautionary statements on a product label would have prevented it.

Compliance with two separate sets of regulations that are fundamentally opposed, with one being hazard-based, the other risk-based, is not only costly for manufacturers, it is likely to confuse users and subsequently threaten worker health and safety. SWA itself admits that there has not been one occurrence where the lack of GHS hazard and precautionary statements on APVMA approved labels directly lead to a WHS incident[21].

The additional GHS hazard and precautionary statements required to be included on the small, already crowded APVMA approved agvet chemical labels is already available in the SDS that are legally required to be provided on first supply and on request, and are also readily available online. Duplicating this information on agricultural chemical labels is unnecessary and risks undermining worker health and safety. In fact, it is imperative that the APVMA approved label and the SDS are kept distinctly separate as they, by design, deliver important but different information that, as the lack of WHS related incidences contends, are very effective in achieving safe use.

The Australian Federal Government as a whole is making a concerted effort to cut down on duplicative regulation as part of the commitment to reduce the costs and regulatory burden imposed by unnecessary red tape. Removing the recognition that APVMA approved labels created additional regulation that is not only duplicative, costly and unnecessary, it also risks undermining worker health and safety through confusing messaging on already fully regulated and approved agricultural chemical labels.

These unnecessary additional regulations also duplicate, and in many cases directly conflict with the state legislated storage requirements associated with Poison Scheduling. For example, GHS precautionary statements for Schedule 5 chemicals may require those products to be stored locked up whereas state-based poison scheduling storage requirements do not require this for Schedule 5 chemicals.

The implementation of GHS hazard and precautionary statements on agvet chemical products is not managed by a single entity. Instead, the system is self-managed by the chemical companies themselves. Without the consistency provided by a single regulator, there is the very real likelihood that two identical products by two different companies could have differing GHS hazard and precautionary statements. This is due to the inherent subjectiveness this process enforces, through company regulatory affairs personnel individually determining what is considered duplicative or conflicting, leading to further confusion by users and increased risk to workers. SWA have already conceded that the APVMA labelling system is superior to the system they intend on implementing by giving preference to the APVMA's Safety Directions where there is perceived duplication or conflict. As such, reinstating the recognition that APVMA approved agricultural chemical labels are appropriately labelled to meet WHS requirements is the only feasible way forward.

In direct contradiction to statements made at the Senate Education and Employment Legislation Committee Estimates on 22 October 2015, two examples purporting to be evidence of incidences where a lack of GHS statements directly led to WHS incidences were provided by SWA in response to questions on notice submitted by Senator Leyonhjelm during the 2015-2016 Additional Estimates. These two examples highlight the poor basis regarding the implementation of GHS statements on APVMA approved agvet chemicals.

Firstly, carbon disulphide has not been registered in Australia for 14 years and if it were to be registered today, the APVMA would require flammability signal words.

[21] Senate Education and Employment Legislation Committee estimates, Hansard reference: 22 Oct 2015 pg. 49-50

The second example involving the herbicide Hotshot can only be described as scraping the bottom of the barrel. A bystander 500 metres from a spray activity having an allergic reaction to something does not remotely equate to an incident that could have been avoided with the introduction of GHS hazard and precautionary statements. The fact that the incident report compiled by emergency services shows both the bystander and emergency services sought and located with ease the relevant SDS shows that the current system is adequate and works well. How SWA could consider this as an example that justifies the introduction of GHS statements on APVMA approved labels is beyond belief, and further highlights how misguided and belligerently obtuse the implementation of this unnecessary regulatory burden has been.

9. Aside from increasing worker health and safety risks, the cost of implementing GHS on the agriculture industry is significantly high

CropLife's best efforts to calculate the conservative cost of introducing GHS hazard and precautionary statements to the labels of APVMA registered agricultural chemical products by 1 January 2017 resulted in a figure that exceeded $57 million.

This was calculated on the basis that there are in excess of 6,500 agricultural chemical products registered by the APVMA impacted by WHS Regulations, each with an average of two pack types per product, such as a 1 litre and a 5 litre, which effectively doubles the agricultural chemical product labels impacted. Due to the robust internal compliance processes necessary to ensure each pack type is supplied with the correct hazard information and the labour and worker hours involved in achieving this, the cost of affixing an unnecessary additional label to each pack type is just under $5000 (see Figure 1 for cost breakdown).

Figure 1 : Cost breakdown of implementing additional GHS labelling for agricultural chemicals

		Cost (average)
Registered Products	6,500 (source: APVMA)	$8,911
Pack Types	12,135	$4,773
Total		**$57,923,387**

However, the invitation from the Chair of the SWA Board, Ms Diane Smith-Gander, to present at the Extraordinary SWA Board meeting on 17 August 2016 included a request for a detailed breakdown of the cost of amending labels. To enable a more informed debate based on verified data and expert assessment, CropLife commissioned Ernst & Young (EY) to undertake a comprehensive independent regulatory burden assessment of the changes to the labelling requirement for agricultural chemicals (refer to attachment – EY Report: Regulatory Burden of proposed changes to agvet chemical labelling requirements under WHS legislation). The methodology used by EY is consistent with the Commonwealth Regulatory Burden Measurement framework and involved significant stakeholder consultation and the analysis of data from stakeholders and the APVMA.

The conservative estimate of the regulatory burden to the agricultural chemical industry arising from the changes to labelling requirements is just under $46.3 million.

This figure is lower than the one resulting from CropLife's analysis, however, noting the conservative approach taken by EY and the robustness of the analysis, CropLife is satisfied that this figure accurately represents the ***minimum*** cost of this unnecessary regulatory burden, which only undermines existing and effective worker protections.

Despite strong objections from farmer representative groups, all relevant industry bodies, the Department of Agriculture and Water Resources and the APVMA, Australian farmers will be hit with a cost of more than $46 million, just to continue to use crop protection products that are critical to their ability to farm productively, sustainably and competitively. It is important to note that this cost is for agricultural chemicals alone, and does not include veterinary chemicals. ***Therefore the total cost to Australian farmers for this duplicative and unnecessary regulation that only undermines existing worker protections far exceeds this figure.***

10. The addition of unnecessary GHS labelling requirements undermines the existing regulatory system and effectively dismantles a nationally harmonised system

Not every state government has adopted SWA's Model Regulations, with compliance mandatory by 1 January 2017 (Victoria and Western Australia have not adopted SWA's Model Regulations). Agricultural chemical products, however, are supplied nationally and can be in the market for over twelve months after production. We will soon have a situation where agricultural chemical products with nationally registered and approved labels will be legally sold in one jurisdiction, but not others. The implementation of additional labelling requirements is, by default, the first undermining of the existing nationally harmonised regulatory system for agricultural chemicals managed by the APVMA.

Additionally, the lack of a single regulator providing consistent oversight on required GHS hazard and precautionary statements will lead to inconsistencies in labelling between virtually identical products marketed by different companies.

This will lead to additional confusion by agricultural chemical users, further undermining the existing nationally harmonised regulatory system for agricultural chemicals managed by the APVMA.

11. Implementation of the regulations has been beset by flaws and holes; attempts to correct the flaws and fill the gaps have been dismal and are yet to be formally regulated

The information sheets recently published by SWA in a belated attempt to clarify the numerous flaws in the WHS Regulations confirms that manufacturers and importers need to include GHS hazard and precautionary statements on labels for agricultural chemical products supplied on or after 1 January 2017. There is, however, no such clarification for suppliers (resellers). Therefore, stock on hand held by resellers as of 1 January 2017 will need to comply with WHS regulations. Yet SWA and the state regulators have done very little to inform suppliers that the millions of dollars' worth of stock each have on hand or purchase before 1 January 2017, will become non-compliant as of 1 January 2017.

Additionally, persons conducting a business or undertaking, such as farmers, have been purportedly advised by SWA that they have been saved from unnecessary regulatory burden through a proposed amendment which has not yet been reflected in the Regulations. If this fails to occur before 1 January 2017, farmers will have to amend the labels of agvet chemicals held on farm to comply with WHS regulations or risk a significant fine.

SWA and state regulators have also put very little effort into informing agricultural chemical manufacturers and importers. CropLife suspects that non-CropLife members have not even heard of GHS or its impending implementation. The recent assessment undertaken by EY in their report on the Regulatory Burden of proposed changes to agvet chemical labelling requirements under WHS legislation, identifies that there is more than 500 non-CropLife member agricultural chemical companies in Australia and while making up a relatively smaller market share, this represents a significant quantity of product in the distribution chain that is unlikely to comply with WHS regulations on 1 January 2017.

Information regarding how state regulators intend to undertake compliance activities has also been non-existent, other than rumours and hearsay that the first 12 months will focus primarily on education, not enforcement. This information is of no use if it is not a formal written position by every jurisdiction choosing to adopt SWA's Model Regulations.

Of more concern, however, is the question of how state regulators are going to manage the increased compliance workload without any additional funding. It would be disappointing for the agricultural chemical industry and Australian farmers if they have been forced to comply with additional, unnecessary and costly labelling requirements that undermine existing worker health and safety protections, to then find the state regulators lack the requisite capacity to ensure compliance.

12. The best way forward is to reinstate the recognition of the APVMA regulatory and labelling system within the Safe Work Australia regulations

CropLife strongly contends that a truly productive, competitive and sustainable agricultural industry in Australia is not achievable in the long-term without ensuring that regulatory oversight is efficient, effective and where necessary commensurate with the risks, costs and benefits to the broader community.

Crop protection products are crucial to modern farming. It is essential that government works with industry to reduce unnecessary 'red tape' or regulation that is not commensurate with risk to maintain the ability for Australian farmers to access the latest innovative tools in plant science.

While GHS is appropriate for unregulated hazardous chemicals and for all hazardous chemicals in developing countries that don't have an appropriately funded, independent and technically proficient agricultural chemical regulator, it is not appropriate for Australia. The APVMA is a globally respected, scientifically and technically sound regulator of agricultural chemicals. Agricultural chemical labels are already effectively regulated by the APVMA under the *Agricultural and Veterinary Chemicals Code Act 1994 (Cth)*. Each product undergoes a comprehensive expert technical hazard and risk assessment and safety warnings are applied that reflect the outcomes of that assessment.

All GHS hazard information is already readily available on SDSs and Australia's major trading partners have specifically exempted agricultural chemicals from GHS in recognition that their existing regulatory systems. It is appropriate that a similar confidence in the APVMA regulatory system is shown. The colossal confusion these unnecessary labelling changes will create in the marketplace on 1 January 2017 will lead to a significant disruption to supply at a critical time for farming productivity. Having this unnecessary regulatory duplication removed before it's too late is critical to Australia's agricultural competitiveness.

Of more concern, however, is that the addition of GHS hazard and precautionary statements on agricultural chemical labels only serves to dilute the specific and effective safe use instructions already present on the APVMA approved label. This runs the very real risk of inherently increasing risk to worker health and safety for agvet chemical users. Labelling focused only on intrinsic hazards, undermines the specific risk mitigation of that hazard, which creates additional risk.

The SWA Board must urgently reinstate the previous recognition that APVMA approved agricultural chemical labels comply with WHS regulations to avoid unnecessary risk to the users of agvet chemicals. Failing that, the SWA Board must at least pause the implementation to enable genuine consultation, appropriate critiquing and analysis to allow the introduction of a solution that satisfies WHS regulators, the APVMA and relevant industry stakeholders without unnecessary regulatory burden.

CropLife and our members has always strived to ensure a world's best practice in industry stewardship and has always been a leader in industry stewardship, often implementing initiatives decades before any mandatory regulatory obligation on broader industry. Safeguarding the established world's best practice labelling system for agvet chemical products and ensuring the best WHS outcomes is the top priority for CropLife and our members which is why such effort has been put in to trying to correct this misguided regulation. CropLife is willing and eager to engage constructively on addressing concerns so that an outcome acceptable to all is achieved and that genuine protection of worker health and safety is protected.