

Ms Judith Sloan
Commissioner
Mutual Recognition Review
Productivity Commission
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Dear Commissioner

ACCORD is pleased to provide the following comments in relation to the Issues Paper released by the Productivity Commission as part of its Review of Mutual Recognition Schemes.

I apologise for the lateness of the ACCORD submission.

ACCORD Australasia is the peak national industry association representing the manufacturers and marketers of formulated consumer, cosmetic, hygiene and specialty products, their raw material suppliers, and service providers. ACCORD members market fast-moving consumer and commercial goods primarily in Australia and New Zealand.

Our industry's products play a vital role in:

- keeping our households, workplaces, schools and institutions clean, hygienic and comfortable;
- personal hygiene, grooming and beauty treatments to help us look and feel our best;
- specialised uses that assist production and manufacturing to keep the wheels of commerce and industry turning; and
- maintaining the hygienic and sanitary conditions essential for our food and hospitality industries and our hospitals, medical institutions and public places.

These benefits are essential to safe, healthy living and maintaining the quality lifestyle we all too often take for granted.

With an estimated annual retail product sales in the vicinity of \$10 billion, the formulated consumer, cosmetic, hygiene and specialty products industry is a significant part of a prosperous Australian economy. We are a dynamic and growing industry, employing Australians and - through our industrial and institutional sector - supplying products essential for Australian businesses, manufacturing firms, government enterprises, public institutions, farmers and consumers.

Our industry has more than 50 manufacturing operations throughout Australia and member companies include large global consumer product manufacturers as well as small dynamic

Australian-owned businesses. A current list of ACCORD member companies is provided at Attachment 1.

ACCORD has a specific and direct interest in the current review of Mutual Recognition Arrangements (MRA) and Trans Tasman Mutual Recognition Arrangements (TTMRA). These arrangements can be extremely valuable vehicles to reducing regulatory impediments to goods and services mobility across jurisdictions. ACCORD is disappointed that the previous Government had not publicly responded to the Productivity Commission's (PC) Research Report, *Evaluation of the Mutual Recognition Schemes* (October 2003).

We are therefore pleased to see that the current terms of reference include an assessment of the implementation of the 2003 review findings as we believe that the PC made some valuable recommendations. For example, the PC found that the effectiveness of the MRA would be enhanced by undertaking an awareness program on the obligations and benefits of mutual recognition, aimed at regulators, policy advisers and relevant industries and professions. ACCORD supports this finding from the PC Research Report and would encourage all jurisdictions to undertake training and provide information to better inform regulators and policy makers as well as to encourage better take up of the MRA provisions by industry.

While we note that COAG has put out an excellent document to assist in understanding the MRA process, this was only by accident and we would be surprised if there is much benefit being realised to industry at this stage. The document needs to be promoted more effectively if it is to be of any benefit. We therefore encourage the PC to recommend a comprehensive promotional program of the benefits of MRA and TTMRA to key stakeholders and potential beneficiaries.

Coverage of TTMRA

The chemicals sector as part of industrial chemicals is currently subject to a special exemption under the TTMRA. We believe that greater effort is required by regulators on both sides of the Tasman to overcome perceived obstacle regarding the trade in chemicals. Again we bring into question why Australia requires a notification and assessment scheme for all chemicals regardless of toxicity whereas New Zealand has a more pragmatic approach in the control of hazardous substances through a risk management approach without any detriment to environment, or public health and safety. There is no reason why hazardous industrial chemicals could not be subject to TTMRA arrangements as both jurisdictions have agencies which undertake assessment of their hazardous properties.

ACCORD notes that cosmetic products are currently controlled as industrial chemicals in Australia and hazardous substances in New Zealand. Since the Australian Government finalised its reforms to cosmetic products at the therapeutic interface in September 2007 and New Zealand introduced the Cosmetic Products Group Standard on 1 July 2006, the regulatory controls for cosmetic products are now closely harmonised and there is a strong case for TTMRA to apply to this class of consumer goods. The application of TTMRA for this class of low risk, fast moving consumer products will have significant benefits in facilitating trade and reducing unnecessary barriers.

Reform to these cosmetic products provides an ideal opportunity for both Governments to demonstrate their commitment to TTMRA by removing them from the special exemption category. While there are some minor differences to the current arrangements in that New Zealand does not currently recognise anti-dandruff shampoos and oral hygiene products containing fluoride as cosmetic products, these differences are not significant. Industry has made representations to Medsafe NZ to reform these products categories consistent with their regulatory treatment in Australia. Our understanding is that while Medsafe is not opposed to this reform it has not been given priority under the New Zealand Government's current legislative reform timetable.

ACCORD is uncertain as to why the transportation, storage and handling of dangerous goods continue to be an exception to MRA and TTMRA arrangements. Given the current arrangements under the Australian Dangerous Goods Code and the COAG Agreement of 3 July 2008 ... *to the nationally consistent implementation by all jurisdictions of 7th edition of Australian Dangerous Goods Code and attendant regulation within a 12 month period, and directs that all jurisdictions are to adopt the Code and supporting legislation and regulation by December 2008 and directs the Australian Transport Council to report its completion to the December 2008 COAG meeting* we do not understand why this remains out side the scope of MRA and TTMRA.

The primary thrust of chemicals regulation is the protection of public health and the environment. ACCORD supports these important objectives. We endorse the need for efficient regulation that is set at the minimum effective level of intervention necessary to manage risks while at the same time promoting innovation and business activity.

COAG has targeted chemicals and plastic regulation as a regulatory hotspot for which a Productivity Commission research study has commenced and a special ministerial taskforce established. The PC released its draft research report on Chemicals and Plastics Regulation in March 2008. The draft report states inter alia that:

The alignment of land transport regulations with the UN Model Regulations, on which air and sea transport regulations are based, has significantly increased the compatibility of dangerous goods transport regulations across modes. Intermodal consistency has been further enhanced by the ADG7 package setting out a single set of regulations for both road and rail. (page 182).

ACCORD recently wrote to the Federal Minister for Infrastructure, Transport, Regional Development and Local Government in his capacity as Chair to the Australian Transport Council (ATC) about our concerns with the adoption of ADG7. We also asked that *the states and territories agree to mutually recognise compliance of any other state or territory dangerous goods transport regulations. With the consistent adoption of ADG7 by all states and territories, mutual recognition will be a mere formality but will provide assurance to industry that compliance with any one state or territory's ADG7 legislative package will ensure compliance with all other states and territory's requirements. This would reduce the burden on industry, by significantly cutting down on the number of Acts and Regulations businesses need to read and decipher.*

We see no need for the storage and handling of dangerous goods to continue to be outside the scope of MRA and TTMRA since the signing of the Inter-Governmental Agreement for Regulatory and Operational Reform in Occupational Health and Safety by COAG. This marks a significant step forward towards the ultimate goal of a national OHS system which is fully integrated into a seamless national economy. To continue with the exception would be inconsistent with the current thrust of the Government's reform agenda.

Coverage of MRA – poisons scheduling

ACCORD has been arguing for a considerable period for an integrated control framework for chemicals. An important element of the existing chemical control framework which requires significant improvement is the process for the scheduling of chemicals. ACCORD has argued that all jurisdictions should commit to implement the decisions of the National Drugs and Poisons Schedule Committee (NDPSC) without variation. In its 2003 Research Report the PC commented on the divergence from the TGA template and noted that inconsistencies in adoption resulted in uncertainty for manufacturers and made information difficult to locate. The PC suggested three strategies for overcoming this problem:

- Greater coordination between NOHSC and NDPSC;
- Adoption of GHS but only if it does not undermine current safety levels; and
- Clear demarcation of which agency has control of chemicals and/or their use.

It is now five years but COAG has agreed to the following strategies as part of its 3 July 2008 Communiqué.

Reform 15: National harmonisation of poisons scheduling regulation using template or model regulation; plus mutual recognition of decisions.

Recommendation: COAG agrees to the national harmonisation of poisons scheduling regulation using template or model regulation, and mutual recognition of decisions; and directs the Ministerial Taskforce on chemicals and plastics to present recommendations on implementing the reform in a timely manner to the October 2008 COAG meeting for endorsement by the December 2008 COAG meeting.

Reform 16: States and Territories uniformly implement Commonwealth scheduling of poisons.

Recommendation: COAG agrees to State and Territory jurisdictions uniformly implementing Commonwealth scheduling of poisons, and directs the Ministerial Taskforce on chemicals and plastics to present recommendations on implementing the reform in a timely manner to the October 2008 COAG meeting for endorsement by the December 2008 COAG meeting.

While this is a step forward it would not have been achieved without the current Government's push for reform. ACCORD considers that jurisdictions should mutually recognise each other's decisions as a matter of course. This practice would overcome jurisdictional inability to adopt NDPSC decisions in a timely and consistent manner without any deviation from the original decision. It would also overcome additional burdens faced by industry associated with the current practice of imposing specific transportation, storage, handling and/or licensing requirements by individual jurisdictions to give effect to NDPSC decisions.

ACCORD believes that jurisdictions should support the immediate implementation of the Galbally Recommendation 7 regarding the separation of scheduling of medicines and chemicals by establishing two committees. This would give effect in part to the PC 2003 suggestion for clarity in the demarcation of agency control of chemicals and/or their use.

Concluding Comments

ACCORD remains hopeful that these national initiatives will restart stalled reforms to simplify chemicals regulation and eliminate inconsistencies across Australia's jurisdictions. We believe that the efficient and effective operation of the MRA and TTMRA can play a valuable role in eliminating unnecessary burdens which arise because of jurisdictional differences. MRA and TTMRA can be a highly effective tools which form a suite of government measures to eliminate costly and unnecessary duplication. This could be particularly effective in areas where there is limited cross border impact because of the small number of companies operating across more than one jurisdiction. For these areas of regulatory control it may be simpler to mutually recognise individual jurisdictional regulatory controls rather than go down the path of harmonisation.

It is essential in any reform process that elements of the reform agenda do not end up competing with each resulting in little overall progress being made.

Please do not hesitate to contact me should you require further elaboration on the points raised in this submission.

Yours sincerely

Approved for electronic transmission

Dusanka Sabic
Director, Regulatory Reform

25 July 2008

Members

Consumer, Cosmetic and Personal Care:

Advanced Skin Technology Pty Ltd	Keune Australia
Alberto Culver Australia	KPSS Australia Pty Ltd
Amway of Australia Pty Ltd	Kimberly Clark Australia
Apisant Pty Ltd	La Biosthetique Australia
Aroma Science	La Prairie Group
AVON Products Pty Limited	L'Oreal Australia Pty Ltd
Baylor Limited	LVMH Perfumes and Cosmetics
Beiersdorf Australia Ltd	Mary Kay Australia Pty Ltd
Chanel Australia	Nutrimecs Australia
Clorox Australia Pty Ltd	NYX Pty Ltd
Colgate-Palmolive Pty Ltd	Procter & Gamble Australia Pty Ltd
Combe International Ltd	PZ Cussons Australia Pty Ltd
Cosmax Prestige Brands Australia Pty Ltd	Reckitt Benckiser
Coty Australia Pty Limited	Revlon Australia
Creative Brands Pty Ltd	Scental Pacific Pty Ltd
De Lorenzo Hair & Cosmetic Research Pty Ltd	Schwarzkopf
Dermalogica Pty Ltd	Shiseido (Australia) Pty Ltd
Elizabeth Arden Australia	Thalgo Australia
Emeis Cosmetics Pty Ltd	The Heat Group Pty Ltd
Estée Lauder Australia	The Purist Company Pty Ltd
Frostbland Pty Ltd	Three Six Five Pty Ltd
GlaxoSmithKline Consumer Healthcare	Tigi Australia Pty Ltd
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Johnson & Johnson Pacific	Unilever Australasia
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May 2008