Performance Benchmarking Australian Business Regulation
Productivity Commission
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1. About CSR Limited

CSR Limited has been operating in Australia for 153 years. The company is a leading diversified manufacturing company with operations throughout Australia, New Zealand, China and South East Asia and employs over 6000 people. In 2009 trading revenues were $3.5b. The company essentially operates three manufacturing divisions, comprising Building Products, Aluminium smelting, through our shareholding in the Tomago aluminium smelter, and Sugar.

CSR Sugar is the 6th largest sugar company in the world and the largest raw sugar producer in Australia. CSR Ethanol is centred on production in Sarina, Queensland and mainly produces fuel grade bio-ethanol for the Australian market.

CSR Ethanol has a small food ingredients business and these comments relate to those activities. This business employs a very small number of people and has a small but targeted turnover of mostly imported food ingredients through agency arrangements. It does not have the resources of large food processors in terms of regulatory expertise and relies on suppliers for source data. In essence, CSR Ethanol's food ingredients business is a user of the regulatory process rather than an influencer or policy maker. It is largely reliant on Government for interpretation of rules and regulations and does not have a large budget for legal fees or consulting fees from subject matter experts. Nevertheless it forms an important niche market role handling small volumes of products incrementing off the systems and processes required to run CSR's ethanol business.

2. Interpretation of Regulations

The main issue that this business finds with regulation is the inability to obtain an interpretation of the codes. The ingredients business has many international relationships with different countries. Food ingredients which are readily available in other economies with strict food regulations, are offered to our company to ascertain the suitability for Australian markets. These food ingredients meet many international food standards including FAO JECFA, Codex and others. In pursuing one such opportunity recently, our representative called FSANZ to understand the requirements of FSANZ Std 1.3.4 to be told that your local state Food Authority are the only ones who can interpret the code. FSANZ were unable to interpret the code because it is not their responsibility, and the states had jurisdiction. The State Food Authority did not understand this particular standard themselves and while helpful said they mainly dealt with food outlet cleanliness. The matter was not complex – but it needed someone to interpret this particular code standard to be able to determine whether it complied or not. The code was not self evident. It is clear that the states are not subject matter experts in interpreting the code. The only other alternative available to us was to seek legal advice which is costly. Eventually we were able to find out the answer to our question by interpreting a paper published by others. In other words, the regulator was unable to provide an answer to CSR, but

by reading between the lines in another party's publication we were able to surmise a result. In this example, we have spent over 6 months, a considerable amount of time, to try and get a definitive answer. This time represents lost opportunity.

We have further opportunities under investigation and in this case we will more than likely not stumble across a paper from which we can surmise a clarification. In one particular case, a product which is widely used in Japan and approved by the Japanese authorities has some market potential in Australia. Legal advice and subject matter expert opinion suggests that the ingredient should be satisfactory under the FSANZ code. No-one can definitively tell us whether it *is,* or *is not,* allowable. There is simply no point spending money on applications or market research to further develop the opportunity. Again the system stifles innovation in Australia, particularly for small enterprise.

Many of our customers, who tend to be small and medium size producers, are quick to adopt new ideas and products. A major barrier to the introduction of new ingredients is that we are unable to advise potential customers whether they are "allowable" under the code. Our resources are such that we have limited funds for expert legal advice. Legislation should not be discriminatory against small and innovative producers. It should provide for equal access to all regardless of size.

This is a barrier to innovation and denies the Australian public access to products which may have improved health outcomes, and food processors the opportunity to produce better or healthier products.

3. Case for Interpretative Body

While always reluctant to advocate for more regulatory authorities, it is simply not possible or affordable for all the states and territories to maintain the level of expertise required to provide interpretation of the code. If FSANZ considers it is prevented from interpreting the code because of its charter, then consideration should be given to a restructuring of arrangements. Expertise should be concentrated in a one stop shop for all Australian and New Zealand manufacturers and businesses, rather than fragmented through the states. Tasks should be allocated to those places where it can be most efficiently handled. The States and Territories are well placed to manage inspection regimes and deal with specific localised contamination issues arising from point source manufacturing or processing. In CSR Ethanol's experience, the States, while helpful, are not sufficiently knowledgeable to provide the advice required by industry. It is also not clear that when codes change, that all the jurisdictions are advised of the changes and particularly the interpretation of the changes. Each jurisdiction would be required to have its own duplicative expertise to maintain its currency. This will become even more complex and difficult for the states if the proposed health claim legislation is introduced.

Technical matters such as code interpretation are best centralised, including New Zealand. This might mean establishing a new body to handle such matters. Such a body must have broad representation from industry, government, and bodies such as CSIRO for example. Most importantly it must be able to provide timely opinions at low expense which act in the interests of improved public health in Australia.

Thank you for the opportunity to comment.

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