



PA CIA SUBMISSION

TO

***PRODUCTIVITY COMMISSION INQUIRY INTO
WORKERS' COMPENSATION AND OCCUPATIONAL
HEALTH AND SAFETY FRAMEWORKS***

JUNE 2003

PACIA Submission to the Productivity Commission Inquiry into Workers' Compensation and Occupational Health and Safety Frameworks

Introduction

The Plastics and Chemicals Industries Association Inc (PACIA) is the national association for the Australian plastic and chemical sectors, which have a combined annual turnover of \$21 billion and employ over 77,000 Australians. It is the fourth largest manufacturing sector in Australia accounting for just under 10% of total manufacturing output and has one of the highest value adds of any manufacturing sector. The sectors face intense competition in both domestic and international markets with an annual export value of \$3.4 billion compared with an annual import value of more than \$9 billion. Through the Chemicals and Plastics Action Agenda, the industry has set itself growth targets to be achieved through import replacement and a doubling of exports by 2010.

PACIA represents 260 members across all sectors of the plastics and chemicals supply chain, including manufacturers, processors importers, distributors, and transport and storage companies. These companies range in size from large multinationals such as BASF, Nufarm, Wesfarmers and Dow Chemical to small and medium sized companies, many of which are family-owned. Plastic and chemical companies are critical to the functioning of any economy as they provide the building blocks for nearly all other sectors of the economy, including agriculture, packaging, automotive, building and construction and information technology industries.

Like all manufacturing sectors the chemicals and plastics sector has a strong commitment to workplace health and safety. The industry has two voluntary programs aimed at improved health and safety at its sites. For the Chemicals Industry, Responsible Care® sets out six codes of practice for companies to follow. This program is an international program currently operating in 47 countries including the United States, Japan and Europe. Plascore™ is the voluntary program for Australian plastic companies and has been developed in conjunction with State Workcover Authorities and insurers.

PACIA is a member of the Australian Chamber of Commerce and Industry (ACCI) and supports in principle that group's submission to the inquiry. In particular, PACIA supports the following core principles advanced by the ACCI:

- A nationally consistent workers' compensation scheme across all aspects particularly premium setting, benefits structures and insurance regulations.
- A nationally consistent OHS regulatory framework underpinned by practical guidance materials developed in conjunction with industry
- The need for regulatory frameworks and systems to be administered and interpreted in a nationally consistent manner
- A regulatory approach which seeks to raise awareness, to inform and to educate where compliance and enforcement are a last resort not the first step
- A culture of Governments (State and Federal), employees and employers working together with mutual responsibilities to ensure the core principles are met.

Workers' Compensation Framework - National Consistency

A nationally consistent framework is the cornerstone to any effective workers compensation and OH&S system. PACIA has identified in its Action Agenda the need for consistency in legislation across all Australian jurisdictions. Currently a complex framework of legislation and regulation govern the operations of plastic and chemical companies. This produces an environment of uncertainty, increases costs and increases the administrative burden for companies, particularly those who operate sites in different states. To address this, there must be discussion among Australian jurisdictions on the fundamental aspects of workers compensation schemes that can be made nationally consistent. This discussion must occur in a process of full consultation with all stakeholders in the system. The critical elements for PACIA of any future Australian workers compensation system are outlined below.

1. **Access and Entitlement** - the changing labour market and increased use of contractors requires that definitions of key terms be clear and consistent. In particular there is a need to develop nationally consistent definitions on a range of terms including injury; Worker; Workplace; Contractor; and Independent Contractor. These definitions must be developed cooperatively between employers, employees, Governments and insurers to ensure sectoral and production process differences among industries are identified and accounted for.

Fundamental to any workers compensation scheme is the principle of 'duty of care'. An examination of recent workers compensation cases suggests that jurisdictions have focussed application of the 'duty of care' principle solely on employers not on both employee and employer as envisaged in the original legislation underlying workers compensation schemes. As such employers are required to predict all possible safety problems in the workplace. This is an unrealistic and unfair assumption to impose on employers, particularly those operating complex production lines and machinery.

A nationally consistent workers compensation system must ensure that the 'duty of care' principle is applied to both employee and employer as originally intended. A legal framework that recognises and enforces 'contributory negligence' in workers compensation cases before the courts or tribunals based on the concept of mutual responsibility must underpin this.

2. **Premiums** - formulae developed under a nationally consistent system must have clear definitions as to the treatment of factors in calculating workers compensation premiums. PACIA supports the ACCI contention that Workers Compensation premiums should be based on claims experience coupled with a defined timeframe for the removal of the claim from the premium calculation. This would provide both an incentive for companies to maintain strict standards of workplace safety and address issues of companies, particularly SME's paying excessive premiums based on one historical incident. Processes should in place to ensure that insurers follow this principle.

PACIA agrees with the contention that a national workers compensation scheme must be fully self-funding and premiums should be structured to reflect this arrangement. In the ACCI 2001 pre-election survey PACIA members identified

workers compensation costs as the 10th ranked issue of importance. Equally, the current 'make-up pay' arrangements should be removed as they act as a disincentive for employees to undertake rehabilitation and return to the workforce. Finally any national system of workers compensation premium setting must be transparent and flexible enough to identify and address issues such as employers paying the same premium twice where they have numerous sites in different jurisdictions.

3. **Benefits** - the benefits structure of any workers compensation scheme should provide adequate compensation for injured workers without discouraging them from returning to work. PACIA argues that compensation payments should be based on three elements:
 - The workers pre-injury ordinary time earnings, excluding overtime payments;
 - The level of incapacity of the worker; and
 - Consideration of what is affordable for the compensation system. To this end a concept of capping weekly compensation payments could be considered. However care must be taken to ensure that the cap does not contradict the first point and decrease the rightful amount to the employee.

It is also important to ensure that clear classification of various levels and periods of incapacity exist in the scheme to ensure consistency and transparency in the calculation of weekly compensation payments. PACIA supports the ACCI argument that lump sum payments should be restricted under workers compensation schemes to only those workers whose injuries have caused a permanent total or partial impairment or loss of use of any part of their body or death. In such cases the lump sum must take into account the workers pain and suffering as a result of the injury.

Many lump sum payments come from the application of common law in workers compensation claims. PACIA understands that while current workers compensation systems operate on a "no-fault" basis, common law operates on an adversarial basis that is clearly at odds with the "no-fault" principle. The adversarial nature of this legal process adds significant time and cost to employers and employees while also inhibiting the effectiveness of rehabilitation and timeframe for the employee to return to work. Restricting the access to common law lump sum payments as noted above will go some way to improving the current cost and operation of current systems.

4. **Insurance regulation** - one of the key factors in the workers compensation mix is the treatment and behaviour of insurers. Any national system must take account of the changes already underway in the governance of the insurance industry. Given recent trends in the insurance market workers compensation schemes must allow for self-insurance by suitable employers.

Clear guidelines and parameters for self insurance must be in place to ensure that self-insuring employers are aware of and can meet their obligations under the system. The suggestion by ACCI of having national self-insurance licences is supported by PACIA. Many companies particularly larger petrochemical companies have been involved in self-insurance for some time and such prior experience should be taken into account in the granting of such licences for employers.

Any workers compensation scheme must be open to private insurers. Coupled with other measures this will allow competition among insurers resulting in improvements in the quality of service and ultimately lower premiums. However, strict controls must be in place to ensure that insurers and self-insured companies are meeting all requirements and to maintain a transparent and level playing field.

Issues surrounding reporting and statistical requirements must also be addressed to ensure all participants; particularly employers and employees have accurate information. This information will be critical to ensure the smooth and consistent operation of the workers compensation system. Ultimately it may be able to provide a useful benchmarking tool for industries and companies to use in establishing their OH&S policies.

5. **Rehabilitation** - The system must address the obligations of both employees and employers on rehabilitation and return to work. The focus must be aimed at returning employees to the work environment as quickly and safely as possible. This can be done through improving the delivery and access to rehabilitation programs for both employers and employees. Such a system should seek to integrate rehabilitation as closely as possible into the employers operations and coupled with a sliding benefit structure as discussed above is likely to provide for a faster recovery for the employee, a lower burden on the employer and a cheaper workers compensation payment.

Improved accreditation and monitoring of occupational rehabilitation providers is also necessary to ensure transparency and accountability is maintained in the system. This should be done through the Department of Health and Community Services with regular reviews to ensure that the system is operating cost effectively and efficiently.

6. **Dispute Resolution** - a nationally consistent system must ensure that cost-effective dispute resolution mechanisms are available. The system must operate in such a way that keeps legal costs to a minimum and ensures timely resolution of disputes unlike the current system, which proves extremely costly and time-consuming for employers and employees.

Occupational Health & Safety framework - a national OHS framework

Industry, through ACCI, has been an active member of the tripartite National Occupational Health and Safety Commission (NOHSC) since its inception in 1985. PACIA is actively involved in key NOHSC committees dealing with chemicals issues.

The development by NOHSC of the National OHS Framework followed closely by the development and endorsement of the National OHS Strategy has strengthened the working partnership of the NOHSC stakeholders.

NOHSC is now recognised by the stakeholders as having a central role to play in the implementation of a national consistent OHS framework through the development of a package of national standards and codes of practice underpinned by guidance materials endorsed by the Workplace Relations Ministers' Council (WRMC).

Endorsement of National Standards packages at WRMC is now supported by a requirement for an annual report on the implementation, monitoring and reporting process on the status of adoption by the jurisdictions.

Whilst this high level reporting on the adoption of national standards is a step forward, sadly there are still major issues of inconsistent adoption and a robust mechanism to ensure nationally consistent outcomes is badly needed.

The commitment given by Ministers to the National OHS Strategy is seen as a possible catalyst for such a mechanism. NOHSC now has the opportunity to use the WRMC endorsed National OHS Strategy to provide greater national leadership and coordination of national OHS resources through the jurisdictions, leading to improved national consistency and improved national OHS performance outcomes.

One suggestion is that instead of national standards, NOHSC develop a national package for each standard which would include:

- A Model Regulation
- Code of Practice
- A Suite of industry sector risk/hazard guidance materials

However the production of this national package would achieve nothing without a robust process of consistent adoption by the jurisdictions.

PACIA proposes that an existing successful model which should be closely examined is the legislative approach taken to the transport of Dangerous Goods by road and rail. In this area, the publication of the ADG Code (which incorporates the ADG Code, the Rail (Dangerous Goods) Rules and the Commonwealth Road Transport Reform (Dangerous Goods) Regulations) is **approved** by the Ministerial Council for Road Transport and **endorsed** by the Australian Transport Council.

Subsequent to national endorsement, several jurisdictions adopt the ADG Code and other legislation directly by **template legislation**, and others adopt consistently. There are also ongoing processes involving for example the Competent Authorities Panel to support **consistent interpretation and administration** of this legislation.

This model supports timely, consistent and efficient regulation of dangerous goods transport in each jurisdiction, and consistent and cost effective safety outcomes for both industry and the community.

Case studies revealing the current situation with minimal and inconsistent jurisdictional adoption of the NOHSC Major Hazard Facilities and Dangerous Goods Storage and Handling National Standards are set out below to highlight the concerns in the OHS arena.

1. Nationally Consistent Regulatory Framework

PACIA submits that the development of a nationally consistent regulatory framework which is adopted consistently by the nine (9) jurisdictions through nationally adopted standards supported by national codes of practice and underpinned by guidance materials will lead to improved OHS performance, improved safety outcomes and improved compliance. Further these improvements would be achieved with reduced costs of compliance and enforcement. The framework would be further improved where the jurisdictions regulate through only one consistent agency in each States/Territories.

Currently, particularly in the area of chemicals legislation, we see

- a very complex legislative framework,
- which is adopted in some jurisdictions, and not others,
- which is adopted inconsistently by jurisdictions,
- which may be administered by different lead agencies in different jurisdictions and
- which is administered and applied inconsistently.

In November 1998, Environment Australia released a report that identified 144 separate pieces of Commonwealth, State and Territory legislation covering HSE obligations with respect to chemicals. The May 2003 report to the Environment Protection and Heritage Council from the National Taskforce on Chemical Regulation and Management again highlighted the complex maze of chemicals regulations in this country.

The Chemicals and Plastics Action Agenda which was provided to Government in March 2001, highlighted the need for regulatory reform as critical to the ongoing viability of the chemicals and plastics industry.

Case Study 1: Adoption of the 1996 NOHSC Major Hazard Facilities (MHF) National Standard by jurisdictions

In 1996, after some five years of development by a tripartite NOHSC committee, and formal public comment processes, NOHSC declared the National Standard for Control of MHF 1996.

• Delays in adoption by the jurisdictions

Sadly, at the time of the Longford incident in September 1998 when two people were killed, eight seriously injured and Victoria lost gas supply for almost two weeks, neither Victoria nor any of the jurisdictions had moved to adopt the 1996 national MHF standard in legislation, although Western Australia had adopted it administratively. The Longford Royal Commission Report in June 1999 recommended that the Victorian Government implement Safety Case legislation of

the style set out in the 1996 NOHSC National Standard. However, in June 2003, seven years after the National Standard was declared, there are still only two jurisdictions (Victoria and Queensland) which have adopted the 1996 NOHSC standard into regulations. Clearly those very long delays in adoption by the jurisdictions (after lengthy expert, consultative development processes through NOHSC) will not achieve the safety outcomes sought by industry, unions and the community.

- **Inconsistency in adoption**

Specific differences exist between the MHF Regulations in Victoria and Queensland (and the legislation currently being drafted in NSW and WA). These differences are as fundamental as the definition of what is a MHF and also the scope of the regulations - whether the safety case must deal with health and safety issues alone, or whether it must also address environmental or land use planning issues. The Victorian regulations are much more prescriptive and onerous than either the National Standard or the Queensland regulations.

- **Inconsistency in Lead Agency**

MHF legislation is administered by a range of different lead agencies - WorkCover in Victoria, Emergency Services in Queensland, Planning in NSW etc). These differences result in some differences in focus in implementation.

- **Inefficiencies and costs**

Given the NOHSC National Standard was developed in a lengthy tripartite process over some five years, involving a Regulatory Impact Statement and Public Comment processes, it is inefficient and costly to have further tripartite development processes at the jurisdictional level - often taking years for each jurisdiction.

- **Complexity and Cost**

Implementation of MHF legislation and development of a safety case by each MHF has proven to be a very costly and complex process. National companies should be able to use streamlined and consistent processes to develop the safety case for each MHF, even though they may be situated within different jurisdictions. Sadly because of the lack of national consistency, this appears unlikely to be possible. In the current situation with an MHF standard only implemented in two jurisdictions, (and implemented inconsistently in those two jurisdictions), industry in those two states has a competitive disadvantage with respect to their interstate competitors and counterparts. Workers and the public are similarly being disadvantaged as the levels of protection under the National Standard exist in only two jurisdictions.

Case Study 2: Adoption of the 2001 NOHSC Dangerous Goods Storage and Handling National Standard by jurisdictions

The NOHSC process of developing the National Standard for the Storage and Handling of Workplace Dangerous Goods took place over a ten year period. This new performance based standard was a major shift in the approach to regulation of dangerous goods, and was endorsed by the NOHSC stakeholders and declared in March 2001. However, despite this very lengthy tripartite development process, we have seen delays in implementation of the standard by the jurisdictions, and also inconsistencies in application of the standard.

- **Delays in adoption by the jurisdictions**

Despite commitments given by WRMC to consistent adoption of the DG National Standard, in June 2003, only two jurisdictions (Victoria and Queensland) have adopted the standard. Currently, in both NSW and WA there are consultative working groups set up by the relevant agency to develop state DG regulations. These parallel and sequential national and state processes are costly, lead to delays in implementing legislation and also lead to inconsistencies at the jurisdictional level.

- **Inconsistency in adoption**

While both Victoria and Queensland have developed new DG regulations which are performance based and broadly consistent with the National Standard, the actual implementation and administration is quite different. Victoria is implementing the performance based regulations through WorkSafe. On the other hand, Queensland is implementing the DG regulations through 125 local councils in a more prescriptive manner, often not consistent with the national standard.

NOHSC, through its Dangerous Goods Implementation Reference Group, has developed a number of initiatives to support and facilitate consistent implementation in the jurisdictions (a series of Frequently Asked Questions (FA Qs) and a Dangerous Goods Ready Reckoner). Sadly both these initiatives have been undermined to an extent by the inconsistency either currently in place, or anticipated by the jurisdictions. NOHSC has had to focus its FAQs to a generic set of questions relating to the National Standard, leaving specific FAQs to the states and territories to develop. Further, the Dangerous Goods Ready Reckoner prototype, rather than being developed for use across Australia, is having to be developed as a core by NOHSC, for the jurisdictions to vary at the state level, to reflect the specific state regulatory requirements.

This complexity of requirements across Australia adds unnecessary costs to business and makes compliance with the different requirements more challenging.

PACIA recommends that the Productivity Commission should closely examine a model of development and adoption of **template legislation** to achieve a nationally consistent regulatory framework, which would result in improved OHS performance and safety outcomes, improved compliance, and reduced costs to government, industry and unions.

2. Nationally Consistent Application in the Workplace

PACIA strongly supports the ACCI contention that National Consistency through national adoption of standards, regulation, guidelines and compliance strategies leading to a level playing field for industry in all states/territories across Australia will result in a range of benefits to industry including:

- Improved understanding leading to improved compliance
- Reduced complexity
- Reduced compliance costs.

The adoption of effective evaluation of the practical effect of the national instruments in the workplace would be key to the implementation of such a strategy.

3. Focus on Prevention

Industry is seeking a change of focus and direction by the jurisdictions to a clearly defined and demonstrated focus on prevention.

Industry acknowledges the need for regulations and the responsibility of jurisdictions to ensure compliance with the regulations, but in pursuing the aims and objectives and particularly the targets of the National OHS Strategy, jurisdictions should develop a more balanced approach to education and compliance. Jurisdictions should develop a constructive compliance approach, which incorporates both incentives and assistance for good performance and commitment, and also disincentives for poor performance.

A review of the compliance and enforcement data reveals that there has been an increase in the issue of improvement and prohibition notices with a resultant increase in prosecutions, convictions and fines awarded by the courts. Current strategies clearly demonstrate that the jurisdictional focus is on regulation, compliance and enforcement. This trend over the past four years has not been matched by a similar improvement in OHS performance.

PACIA recommends that scarce government resources should be focussed on those workplaces which are poor performers or high risk sites or those which show little commitment to health and safety. However, there have been a range of self regulatory, voluntary industry initiatives put in place, that demonstrate the maturity and responsibility of the industry. Workplaces implementing these voluntary industry initiatives and showing strong commitment to improving health and safety, should not receive the same focus from government resources as other workplaces. PACIA's Responsible Care and Plascare programs are good examples of these voluntary initiatives which demonstrate the industry's commitment to health and safety.

4. A culture of shared responsibility - working together at the Workplace and with Governments

In the workplace, employees and employers working co-operatively together in an environment of shared responsibility to ensure a safe and healthy workplace is an expectation of both employers and employees.

PACIA supports the ACCI proposal that Government, while clearly pursuing compliance as an important role, should encourage consultation rather than confrontation at the workplace, as encouraged by the National OHS Strategy.

The encouragement of a workplace culture of working together and of mutual responsibility is seen by industry as one of the core principles in achieving successful outcomes in OHS. It is very pleasing to see the current WorkSafe Victoria media campaign also pursuing this principle.

The use of OHS as an industrial bargaining tool or as a lever to achieve industrial aims is the antithesis to a culture of working together to achieve improved OHS performance.

5. OHS materials to be less complex - easy to understand

Industry supports the development of packages of nationally consistent Standards, Codes of Practice and guidelines, which are developed in close consultation with industry, are written in plain English and have a focus on 'what to do' and 'how to do it' at the workplace level.

Information should be easy to understand, presented in brief segments, industry and workplace focussed and be readily accessible and available. The current process (whereby NOHSC develops National Standards, which are then endorsed by WRMC), does not include a commitment to nationally consistent guidance materials, which are the key to educating employers. In fact, as shown in Case Study 2, the current lack of consistency between the jurisdiction's legislation, makes national guidance material of little practical value.

Current guidance materials prepared by jurisdictions are often generic rather than industry specific, and as a result are not as effective as they could be.

Industry seeks the development of nationally consistent guidance materials, which meets the needs of the workplace.

6. Issues of development and use of Australian Standards as a tool in the OHS legislative framework

PACIA contends that the current process for development and use of Australian Standards as a tool to provide detailed technical guidance in the workplace is flawed and in need of urgent review.

Standards Australia is currently the only provider of detailed technical guidance in many areas like dangerous goods and plant. These standards are vital communication tools which need to be accessible in large and small workplaces, to technical and non technical people, to both managers and employees. Yet language is often complex, standards are often very long and cross refer to many other standards, and they are expensive to purchase. The mandatory language used in standards is inconsistent with the increasingly performance based regulatory environment in Australia.

There is no transparent process for deciding priorities for development of health and safety standards. Ideally priorities should flow from the NOHSC tripartite considerations and should form part of the National OHS Strategy. There is currently no formal impact assessment of the Standards or consideration of the costs and benefits - yet many standards have a major impact on Australian industry. The context and means by which Standards are called up or referenced by State and Commonwealth regulations - despite the decision of the Workplace Relations Ministers' Council - needs review.

A case study provided below relates to the current revision of AS 1940 - The Storage and Handling of Flammable and Combustible Liquids. This is one of the most widely referenced of all the dangerous goods standards. It has recently been released for public comment. PACIA's general comments on that draft standard are provided to highlight some of the industry concerns

Case Study 3: PA CIA general comments on the draft AS1940 - Storage and Handling of Flammable and Combustible Liquids

GENERAL COMMENT

PA CIA makes the following general comments on the public comment draft. It should be noted that some of the comments relate to issues which are broader than simply the draft AS1940. However, AS1940 is one of the most important and widely used of the dangerous goods standards, and a vital source of information.

1. Place of Australian Standards in the Australian Legislative Framework.

PA CIA acknowledges the vital role played by Australian Standards in providing detailed technical guidance for industry. However, it is important that the language in the Standard reflects that Australian Standards do not establish mandatory requirements - only Acts and Regulations can do that. As you are aware, Australian legislation is now largely in a performance based framework, and certainly AS 1940 needs to fit within that framework to be of most value.

PA CIA notes the earlier decision of the Workplace Relations Ministers' Council that Australian Standards should **not** be called up in regulations, and hence proposes that use of any mandatory language in the standard is inappropriate and should be deleted.

Further any statements requiring "approvals" or "endorsements" by the competent authority is also inappropriate, and should be deleted. Approvals processes are established in regulations, following proper cost benefit consideration.

It is important that AS 1940 is consistent with other related documents, including the NOHSC National Standard and National Code of Practice for the Storage and Handling of Workplace Dangerous Goods 2001, and the Australian Dangerous Goods Code.

2. Costs and Benefits of Requirements

The latest draft has greatly increased in size and scope, yet the public comment process does not currently provide any documented reasons or rationale for changes, additions and deletions.

For example, Section 2.2 Minor Storage Quantity establishes lower cut off levels for minor storage than the 1993 standard - yet there is no explanation as to why - nor is there any justification of the benefits of such a change outweighing the costs.

As you would be aware, minor storage quantities set out in AS 1940, trigger licensing requirements under the Queensland Dangerous Goods Safety Management Regulations 2001, and hence there would be significant cost implications for industry and also the regulator as result of such a change. Under the normal Government process for developing an equivalent guideline or code in line with the COAG Principles, the agency would be required to develop a Regulatory Impact Statement to examine the impact in terms of costs and benefits of the proposal, and that would also be released for public comment. Given the impact of an Australian Standard like AS 1940 on industry and their place as quasi-legislation in Australia, PA CIA contends that the RIS type of evaluation and rigor is essential to be undertaken by Standards Australia. Many state regulations currently reference AS 1940, either in full, or certainly in part, and hence it should be subject to a proper process.

3. Scope and Complicity

This draft standard has increased in size to 169 pages and has become much more complex. The standard has grown by some 50% since 1993. PACIA proposes that significantly more discussion is needed in developing the standard and the standard needs to reflect what is practicable, in a competitive global industry. The scope has broadened to include for example, processing plants for the first time. It is vital that these new areas are subject to thorough cost benefit review, and have language consistent with a performance based legislative framework, ie which acknowledges there are a range of ways of achieving the outcome, and also which acknowledge that controls which may be practicable in new plants, may not be practicable in existing plants. It should also acknowledge the need for transitional periods.

4. Accessibility

PA CIA contends that the ongoing review of the critical draft standard needs to consider the issues which may impact on its accessibility and usefulness for the target audiences. Key considerations should include:

- Target audience - the full range of large to small enterprises, technical and non technical readers, designers, manufacturers, employers, workers - the language needs to be understandable by all.*
- Cost - the high cost of Australian Standards make them less accessible, particularly to SMEs and workers. Most legislation is freely available on websites.*
- Practical Application - and relevance to the real world. The ability of companies to comply with the standard will be adversely impacted if they cannot comprehend it. The complexity even at minor storage quantities, makes it less relevant in the real world.*

PACIA recommends that the Productivity Commission should closely examine the current process for developing detailed technical guidance as a tool in the OHS legislative framework, and seek to achieve improved transparency, accessibility and accountability in the process. PACIA contends that it is vital that the process include an assessment of impact (costs and benefits), similar to the Regulatory Impact Statement process as detailed in the Office of Regulation Review (1998) A Guide to Regulation.

**ACCI Pre-Election Survey
September 2001**

Relative Ranking of 10 most critical issues facing small businesses today

Rank	Area of Concern
1	Frequency and Complexity of Tax Changes
2	Level of Taxation
3	Telecommunications Costs
4	Complexity of Government Regulations
5	Unfair Dismissals Legislation
6	Superannuation Guarantee
7	Cost of Compliance with Government Regulations
8	Energy Costs
9	Penalties for not complying with Government Regulations
10	Workers Compensation Payments

The overriding theme within the survey results is that apart from telecommunications and energy costs, regulation of some variety dominates the concerns of Australian small businesses.

When the data is further broken down to evaluate the effect on small business and then the effect on OHS issues including OHS regulations the feedback is substantially the same with the addition of a couple of OHS specific issues for small business:

- 3 Complexity of government regulations
- 4 Cost of compliance with government regulations
- 7 Penalties for failure to comply with government regulations
- 9 Workers Compensation Payments
- 13 Compliance with Health and Safety Requirements

The outcomes of this survey supports the anecdotal evidence provided by PACIA members in general feedback from a wide range of contacts and consultation with small business.

Clearly small business sees government regulation as complex, difficult to understand, costly to manage and unproductive in the everyday running of their businesses.

How can these concerns be addressed and at the same time assist employers in complying with government regulations in cost effective manner.

Addressing OHS regulations and related issues provides a unique opportunity to involve employers in regulatory reform through the endorsement of the National OHS Strategy, the Royal Commission into Building and Construction and the Productivity Inquiry into Workers' Compensation and Occupational Health & Safety.