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22 January 2004

Ms Monika Binder
National Workers' Compensation
and OHS Inquiry
PO Box 80
Belconnen ACT 2616

(email: wcohs@pc.gov.au)

Dear Ms. Binder,

Re: Productivity Commission Inquiry into Workers' Compensation and Occupational Health & Safety interim recommendations

Thank you for the opportunity to provide comment on the Productivity Commission Inquiry into Workers' Compensation and Occupational Health & Safety interim recommendations.

PACIA is the peak body representing the Plastics and Chemicals Sectors in Australia. The sectors have a combined annual turnover of twenty two billion dollars and employ approximately 77,000 Australians. The products produced by these sectors are an integral part of many other industries including automotive, construction, furnishings, packaging and Information Technology. PACIA members represent the entire supply chain including the manufacture, processing, importation, transport and trading of plastics and chemicals. The size of the companies range from large multinationals to small one and two person operations in both sectors.

PACIA is committed to achieving the highest standards of health, safety and environmental performance by its industries. Adherence to Responsible Care® is a condition of PACIA membership for chemical companies in Australia. This program aims to improve health, safety and environmental performance through the application of six Codes of Practice.

PACIA wishes to provide the following high level industry comment:

PACIA wishes to endorse the ACCI Interim Response to the Productivity Commission Interim Report and to briefly reemphasise a number of points.

The core issues for industry in the review of frameworks for Occupational Health & Safety and Workers Compensation are:

- The interpretation of the Duty of Care for employers and employees – in OHS and Workers compensation tribunals and courts including contributory negligence. This subject has not been addressed in the review and PACIA suggests that it be addressed in the final report.
- The access to national licensing arrangements for self – insurers.
- National Consistency for Occupational Health & Safety and Workers' Compensation.
- A more effective regulatory framework including a packaged approach to Standards, Codes and Guidance materials.

PACIA strongly endorses the Productivity Commission recommendation that there be an agreement that all jurisdiction adopt, by way of template legislation, the acts, regulations and codes as approved by the WRMC without variation. This would address many of the concerns of complexity and costs raised by PACIA in its earlier submission.

PACIA strongly supports the recommendation that the Commonwealth should amend the Occupational Health and Safety (Commonwealth Employment) Act 1991, to enable those employers who are licensed to self – insure under the Commonwealth’s workers’ compensation scheme (or, in a later phase, to insure under a national scheme) to elect to be covered by Commonwealth OHS legislation.

The suggestion to allow self insurers under the Commonwealth workers compensation laws to elect to be covered by extending the Occupational Health and Safety (Commonwealth Employment) Act is, in principle, a sensible one, which will help to achieve national consistency. However, the recommendations need further explanation and expansion to address issues such as: the position of national companies, which are not eligible to elect the commonwealth OHS option and complications of interpretation and lack of consistency where businesses are operating on the same site, but are subject to different OHS regulatory framework.

PACIA is strongly committed to the endorsement of a nationally consistent approach to the development and implementation of national standards focusing on national consistency and practicability.

PACIA supports the proposition that WRMC deal quickly with OHS issues however this should not be at the expense of the quality of the content or merit of the proposal or an appropriate considered decision making process.

PACIA disagrees with the proposal for a smaller NOHSC board of five to nine members appointed by the WRMC on the basis of their expertise and skills. PACIA believes the suggested move away from a tri – partite Commission to a small ‘expert’ board would downgrade and in practice disenfranchise industry, which plays a very active and constructive role in developing national policy, national standards and the national strategic direction of Occupational Health and Safety in Australia.

PACIA disagrees with the recommendation to introduce three committees to provide assistance to WRMC, as it appears to remove the authority of NOHSC in providing advice to WRMC on OHS and related issues. The committee structures will also downgrade and reduce the role of industry to one of advice, rather than providing direct input to policy direction, as is the current situation.

PACIA agrees with the recommendation that funding for NOHSC be shared by the jurisdictions, together with a commitment to funding the research and data collection necessary to ensure the development of a best practice national OHS system.

It is vital that the federal government demonstrates its commitment to OHS at the national level by allocating federal funding. However, individual jurisdictions should be asked or may volunteer to take the lead in the development, for example, of a Code of Practice, which could then be used by NOHSC as the draft for the development of a national code.

PACIA would encourage the more widespread use of this process of a shared development as the National Standards are revised and developed into national packages.

PACIA strongly agrees with the recommendation to immediately encourage self – insurance applications from employers who meet the current competition test to self – insure under the Comcare scheme subject to meeting its prudential, claims management, OHS and other requirements.

Thank you for the opportunity to provide further input into this review.

If you would like to discuss any of these comments further, please contact Margaret Donnan, Manager, Regulatory Affairs on (03) 9426-3805.

Yours sincerely

(unsigned for electronic transmission)

Martin Jones
Chief Executive