

The Secretary
 House Economics Committee
 Parliament House
 Canberra ACT 2600

Accord Submission: Inquiry into labelling of palm oil (*Food Standards Amendment (Truth in Labelling – Palm Oil) Bill 2011*; Senate amendment to *Competition and Consumer Act 2010*)

1. Background to Accord and the Australian formulated products industry

Accord Australasia is the national industry association for the manufacturers and suppliers of formulated hygiene, cosmetic and specialty products - a key sector of Australia's chemical products industry. Representing approximately ten percent of nationwide manufacturing activity, Australia's chemical and plastics industries are a vital part of a healthy Australian economy. Industry products are important for Australian manufacturing and business.

ACCORD member companies (*see Attachment 2 - Membership list*) manufacture and/or supply formulated products for use in both households and industry.

Our sector's products play a vital role in:

- Safeguarding public health: Maintaining essential standards of hygiene and sanitation in institutions, hospitality, manufacturing, agriculture and at home.
- Promoting personal well-being: Helping people keep clean, healthy and shielded from harmful effects of the environment.
- Maintaining comfortable homes: Enabling people to keep their everyday surroundings clean and inviting.
- Enhancing quality of life: Giving people greater personal freedom through time- and effort-saving technologies.
- Boosting confidence and emotional wellbeing: Providing opportunities for self expression, individuality and pampering.
- Keeping the wheels of commerce and industry turning: Fulfilling specialised uses in industry, institutions and agriculture

This includes the following important products: *adhesives, aftershave, air-care products, antiperspirants, automatic dishwasher detergents, baby-care products, bar soaps, bath additives, body treatments, car-care products, carpet cleaners, cleaning solvents, cosmetics, dairy & poultry sanitisers, dishwashing detergents, deodorants, depilatories, fabric care products, fabric softeners, floor cleaners, furniture care products, gel cleaners, hard-surface cleaners, hair conditioner, hair colour treatments, hospital disinfectants, household insect sprays, hygiene products, industrial cleaners, industrial specialties, liquid bleach, liquid soaps, make-up, moisturisers, mouthwash, mould remover, nail-care products, oven cleaners, personal insect repellents, sanitising scrubs, sealants, shampoo, shoe-care products, shower & bath cleaners, skin-care products, sunscreens, toilet cleaners, toothpaste, water treatment agents, window cleaners.*

Accord has around 95 member companies which range from smaller Australian-owned family businesses to the local operations of large consumer brand multinationals.

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Our industry is committed to developing solutions for healthy living and a quality lifestyle

Headline features and statistics for our industry's economic footprint include:

- Estimated annual retail-level sales of industry products nudging the \$10 billion mark.
- Accord member companies directly contribute more than 14,000 full-time equivalent jobs.
- Nationally more than 170 offices and more than 50 manufacturing sites are operated by Accord member companies.

Our sector is highly regulated with a recent internal Accord survey of members showing that:

- 97 percent have dealings with the National Industrial Chemicals Notification & Assessment Scheme (NICNAS);
- 77 percent with the Therapeutic Goods Administration (TGA);
- 58 percent with the Australian Quarantine Inspection Service (AQIS); and,
- 39 percent with the Australian Pesticides & Veterinary Medicines Authority (APVMA).

In essence, there are three distinct product segments for our industry, each with distinct supply chains through to the product end-user:

- Industrial and Institutional products (e.g. commercial cleaning products, agricultural sanitisers) which are mainly sold on a business-to-business or business-to government basis or through agricultural product resellers.
- Fast-moving consumer goods (e.g. household cleaners, laundry detergents, toothpaste, shampoo, soap, insect repellents, household pesticides and herbicides) which are sold to consumers primarily via either: grocery retailers, pharmacies, mass-market retailers, direct selling and hardware chains.
- Cosmetic and beauty industry products (e.g. make-up, skincare, sunscreens, fragrances, hair dyes) which are sold to consumers primarily via either: department stores, specialty retailers, grocery retailers, pharmacies, mass-market retailers, direct selling, hair salons, beauty salons, spas and on-line.

On behalf of our member businesses we welcome this opportunity to document our industry's concerns in relation to this Bill.

Our specific concern relates to the amendment to Section 33 of Schedule 2 of the *Competition and Consumer Act 2010*, with a new specific reference to the use of palm oil in all goods.

2. Our industry's position on the Bill (in particular, the Senate's amendment to the *Competition and Consumer Act 2010*)

Despite the fact that Accord remains confused about the full extent of the potential impacts of the extension of what was initially a food legislation matter to a range of other products (via the amendment to the *Competition and Consumer Act 2010*), our industry concerns were well summarised in letters we sent to relevant Government and Opposition portfolio 'ministers' in late June and early July.

Attached, as the core content of Accord's submission, is our letter dated 1 July 2011 to Treasury Parliamentary Secretary the Hon David Bradbury MP in his role as 'portfolio minister' responsible for consumer and competition law and the ACCC (Attachment 1).

In this letter – and similar ones sent to Prime Minister Gillard, Opposition Leader Abbott, Health Parliamentary Secretary King and shadow ministers Billson, Dutton and Mirabella – Accord makes the following points:

- **Lack of consultation**: Our industry is greatly concerned at the total lack of consultation with businesses in our sector on the amendment to the *Competition and Consumer Act 2010* to

introduce a new legislative requirement on “*misleading conduct as to the use of palm oil*” that will apply to “*the characteristics of any goods*” (our underlining).

Accord was first alerted to the Senate’s passage of this new legislative impost following contact from officials within the federal Department of Innovation, Industry, Science and Research. This is clearly unacceptable consultation practice in terms of parliamentary best practice and contrasts unfavourably with the many months of consultation available to all stakeholders with an interest in food matters – including industry, NGOs and the public – following the recommencement of a major Senate Committee Inquiry on 27 October 2010.

- **Confusion:** We remain entirely confused about how this amendment to the *Competition and Consumer Act 2010* would work in practice. And the rationale or policy justification supporting both its need and its extension to all goods in commerce in Australia – should such a justification in fact exist – is also entirely unclear to Accord.

At the early stages of coming to grips with this matter, following the Senate debate, we were even uncertain if this meant new labelling requirements for products in our sector like cosmetics and household cleaners. In the absence of any clarification, Accord was left to assume that the Senate was imposing a new labelling requirement.

Subsequent documentation published on the Senate website would now indicate that this may not be the case. But just what is expected and required of businesses under this amendment? And is what is expected technically, legally and administratively feasible? Some guidance and clarity would be most welcome.

This issue has additionally resulted in some international confusion – with some overseas industry members assuming that passage of this Bill through the Senate had meant that it would automatically pass into law (not knowing that it is yet to be debated in the House).

- **‘Palm oil’ labelling is already mandated for cosmetic and personal care products:** Cosmetic and personal care products have been required under Australian law to provide ingredient listing on labels since 1993.

These requirements are administered by the ACCC and mandate that either internationally harmonised INCI (International Nomenclature Cosmetic Ingredients) ingredient names or English common names appear on labels.

This means that if a cosmetic or personal care product contains palm oil (or palm kernel oil) as is then the label will list either “palm oil” or “*elaeis guineensis* (palm) oil” (or “palm kernel oil” or “*elaeis guineensis* (palm) kernel oil”).

- **It is unhelpful for newly-minted - and complex - national consumer law, like the Competition and Consumer Act 2010, to be tinkered with for very specific single-issue legislative goals, as has occurred in this case:** The national consumer law embedded in the relatively recently enacted *Competition and Consumer Act 2010* was the result of extensive policy announcements and policy consultation. It followed a 2008 Productivity Commission Review Report and was endorsed by the COAG before being passed on to Treasury for policy consultation and development.

Accord’s was one of over 100 submissions received by Treasury to its 2009 Consultation Paper: *An Australian Consumer Law: Fair Markets - Confident Consumers* on this proposed new national consumer law framework. And from these processes the new national consumer law was introduced into parliaments to “replace 20 existing State, Territory and Commonwealth laws with one law.”

ATTACHMENT 1

