



9 June 2017

Ms Jeanette Radcliffe  
Committee Secretary  
Senate Standing Committees on Community Affairs  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Dear Ms Radcliffe

Thank you for the invitation to submit to the Senate Community Affairs Legislation Committee inquiry into the *Industrial Chemicals Bill 2017* and related Bills. This letter is our submission; we would also welcome the opportunity to appear at a hearing to elaborate on our concerns.

Cancer Council Australia represents the national interests of its members, the state and territory Cancer Councils, in the development and promotion of public policy to reduce the impact of cancer in Australia.

Our Occupational and Environmental Cancers Committee (see Attachment 1) comprises a number of the world's leading independent scientists in exogenous carcinogenesis, epidemiology and occupational health and safety. Their concerns form the basis of this brief submission.

We understand government's interest in seeking improved efficiencies in the use of potentially harmful chemicals. It is nonetheless critical that health and safety remain the first priority when any changes to the integrity of Australia's chemical safety regimen are being considered.

We appreciate the scope of this exercise and the importance of allowing sufficient lead-time between passage of the bill and the development of associated regulations. However, we also urge extreme caution, additional scrutiny and a need for greater clarity – all of which should come before any urgency for reform.

Our main concerns relate to unnecessary haste in the Bill's passage, broad shifts in the way the proposed new chemical assessment agency would operate, and specific concerns where adequate protections and/or clarity are not enshrined in the draft text. These include:

- The structure needs to be carefully considered. The user pays model allows industry to place demands on NICNAS depicting itself as “customer demanding efficient service” rather than acting as an industry legitimately subject to reasonable regulation. This has the potential to compromise the capacity for NICNAS to fulfil its role as regulator.
- The broad shift from pre-market to post-market evaluation is a fundamental concern, given that harms from chemical exposure take time to present and cannot be fixed retrospectively.
- The Bill and the Explanatory Memorandum (EM) contains no detail on the Risk Categorisation Matrix. There is insufficient clarity to ensure the health of the population.
- There is inadequate detail on protections in the EM. For example, the EM refers to critical chemical volumes but contains little detail or guidance on the characteristics of chemicals and volumes other than ‘high’ and ‘low risk’. This is of grave concern, especially for volumes of nano materials and chemicals such as endocrine disrupters.
- Given the lack of detail in the Bill, substantial powers and responsibilities are likely to be vested in the role of Executive Director. While these powers are necessary and

appropriate, the extent to which they are vested in an individual could leave the agency's effectiveness and thereby the health and safety of Australia's vulnerable to poor performance from a future appointee. Safeguards and stronger governance should be considered.

- In recent years NICNAS established the Inventory Multi-tiered Assessment and Prioritisation (IMAP) framework to accelerate the assessment of previously unassessed chemicals listed on the Australian Inventory of Chemical Substances (AICS). This addressed a longstanding deficiency in the information contained on the AICS. There are more than 30,000 chemicals in use in Australia that have not been subjected to the same assessment as new chemicals. This is a legitimate concern to the Australian community. There is nothing in the EM that commits the agency to continuing this work to or ensure commitment of the resources to do so. A commitment for the systematic assessment of the current AICS is needed.
- The Bill will provide the framework to guide regulation – the regulations will underpin specifics in health and safety but potentially without the protection of the parliament.
- Cancer Council commends the Bill's increased powers for enforcement by NICNAS. However, there is little in the EM to indicate how enforcement will or can be used. The Bill may be missing an opportunity to improve the implementation of recommendations made by NICNAS to risk managers. Firefighting foam is an example. In 2003 NICNAS made recommendations identifying firefighting foam as a problem. However, action was too slow at the state level to prevent the events that unfolded more recently. Risk identification is only of benefit if the risk is then actively addressed and managed.

Cancer Council urges the Committee to ensure that the risks to the Australian people from both new and existing industrial chemicals will be assessed and appropriately mitigated.

There are positive features about the Bill and, again, we appreciate the case for improved efficiency. However, given the rapid turnaround of this inquiry, we must highlight our concerns – and the overarching recommendation that efficiency should not be put before health and safety in any haste to pass this Bill without greater clarity. There is in our view adequate time to ensure appropriate safeguards are in place while meeting the Government's timeline. We would, in any case, put health and safety before any other considerations relating to efficiency or expediency.

Thank you again. We look forward to opportunities to discuss our concerns further.

Yours sincerely

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Chief Executive Officer

Terry Slevin  
Chair, Occupational and Environmental Cancers  
Committee