Committee Secretary
Senate Standing Committee on Rural and
Regional Affairs and Transport
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Parliament House
CANBERRA ACT 2600

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Dear Secretary

Please find following Accord's submission to the inquiry of the Senate Standing Committee on Rural and Regional Affairs and Transport into the *Agricultural and Veterinary Chemicals Legislation Amendment Bill 2012 (*the Bill).

Accord Australasia, represents the manufacturers and suppliers of formulated products, including: hygiene, cosmetics and specialty products, sunscreens, food contact sanitisers, deodorants & fragrances, household pesticides, disinfectants, feminine hygiene products, specialty commercial products and oral hygiene products. These products help safeguard public health and enhance our quality of life.

The economic and social footprint of our sector and member businesses is as follows (a current member list is attached):

- Annual retail level sales across the sector nudging $10 billion
- Accord's membership is just under 100 companies
- Collectively, our members employ more than 14,000 full-time equivalent positions nationally
- Accord members operate over 170 offices nationally and more than 50 manufacturing sites
- Through Accord, member businesses support the following programs, which assist the community: Look Good…Feel Better cancer patients support service, Hygiene for Health education website, What's in it? Ingredient disclosure program for household cleaning products, Recognised™ Environmental Credentials Scheme for commercial cleaning products, and WashWise laundry sustainability website and the Furphies website which tackles unfounded scares about our industry's products and ingredients.

Ours is a heavily regulated industry, as recognised by the Productivity Commission (PC) in its 2008 report into chemicals and plastics regulation. Accord supports independent, science-based regulation where warranted for legitimate public health and environmental risks but, consistent with the PC report recommendations, believes Australia's overly complex and fragmented regulatory system for chemicals management and the costs associated with this regulation needs urgent and significant overhauling.

Accord members have a specific and direct interest in the reforms currently being proposed as contained within the Bill. Approximately 40% of Accord members have an interface with the APVMA. The majority are small to medium enterprises operating in low margin businesses that are susceptible to input cost-pressures. The majority of products are either fast moving low risk consumer goods or low risk, well characterised products which should represent a low regulatory burden on the agvet sector and are certainly not the core focus of the APVMA's regulatory activities.

We welcome the Committee's inquiry into the Bill. Accord has concerns that the proposed reforms arising from the Better Regulation Ministerial Partnership Review will not be delivered through the Bill. We support the issues raised in CropLife Australia's submission regarding the failure of the Bill to reduce red tape, improve the efficiency and effectiveness of the regulatory system, reduce costs and improve time to market for innovative products. Instead the Bill will introduce an unnecessary regulatory burden on industry e.g. through

the introduction of the mandatory re-approval and re-registration process. In addition, industry is required to pay for this so called reform measure through an additional impost under cost recovery arrangements**.**

Australia's costly, complex and fragmented regulatory system for the management of chemicals is of concern to our industry. Members have raised concerns at the very slow pace of reform, the ongoing loss of innovation and business opportunities, as well as continuing problems with the decision making and operational performance of our key regulatory agencies involved in chemicals management.

In previous submissions, Accord has argued for a holistic examination of the regulation of the agvet sector and its products from a national perspective. We note with concern that the work of the Better Regulation Ministerial Partnership did not include consideration of PC Recommendation 8.2 for control of use. Resolution of this issue is critical to the reform agenda for agvet chemicals and will have a significant impact on the overall cost of the regulatory scheme and how it is to be managed and funded. To date, industry has borne the cost of much regulatory reform activity with little to show for it. Industry should not be subjected to any further cost pressures through increased fees and charges resulting from the changed regulatory landscape.

Any reform to the agvet regulatory environment must be done within a proper risk management control framework. We therefore welcome the emphasis on decision making using a risk management framework. However, the risk continuum for regulators differs considerably to that of industry. It has been Accord's experience that regulatory agencies have had limited success in implementing reform measures targeting the lower risk spectrum. This was also identified by the PC report which cited examples of failed reform measures as well as noting that Australian regulatory agencies are inherently conservative.

It is therefore essential that the Bill includes a mandatory requirement that within the APVMA's risk management framework in coming to a decision, it must choose the regulatory option which has the **least regulatory burden and cost impact on industry**.

It has been estimated that these reforms will significantly increase the cost to agricultural chemical producers by as much as 30% each year. In turn, this increase in cost recovery from the industry may have a detrimental effect on the availability of accessible chemicals for Australian production systems. It is therefore essential that industry is a beneficiary of the reform process - the cost increases in the quantum identified are simply not sustainable.

The framework needs to be seamlessly integrated with other chemical control mechanisms in operation. The agvet reforms as part of the Government's overall commitment to reform provides an opportunity to improve the efficiency of the agvet sector through optimising existing regulatory controls, in line with the PC's findings and recommended actions for agvet chemicals.

Therefore, to ensure successful implementation of such a measure, a number of steps must be taken such as separation of scientific assessment and risk assessment from risk management; adequate training for staff; identification of a reform champion, establishment of a credible independent expert body to make risk management decisions; and continued political support for reform.

While the Government and the Minister for Agriculture are to be congratulated for taking the initiative to progress this reform work, we remain disappointed that little has been done to implement the PC recommendations arising from its work on chemicals and plastics regulation. We recommend that the Government moves quickly to implement reforms of significance to reduce the complexity and inconsistency of the regulatory regime for chemicals in Australia based on the PC's roadmap for reform, i.e. by achieving national uniformity in regulatory areas; by reducing costs and delays in obtaining regulatory approvals; and by attaining economies of scale in regulatory administration.

In considering the package of reforms contained within the Bill, Accord seeks to confirm that there is a net benefit to registrants of agricultural chemical products. We remain concerned that the efficiency benefits expected will not accrue. On the basis of past experience, there is a very real concern that these reforms will increase rather than decrease the current inefficiency of the system. Proper implementation is the key to successful reform and industry needs to be fully engaged in the development of implementation strategies if real change is to be achieved.

Consistent with our advice to the Better Regulation Ministerial Partnership Review of NICNAS, Accord notes that under the new national Work Health and Safety Acts, all workplaces must conduct a workplace risk assessment for all hazardous chemicals found on that workplace. This duplicates and is to some extent inconsistent with the pre-market risk assessment conducted by the APVMA. Consequently, the APVMA's workplace risk assessments are now largely redundant with limited regulatory impact or effect. Rationalising OHS assessments for both industrial and agvet chemicals would reduce some of the duplication and complexity which the PC noted was at the core of issues faced by the chemicals and plastics sector.

In Accord's previous submissions on improving the efficiency and effectiveness of the regulatory environment for the agvet sector, we have consistently supported the development of an appropriate risk management framework to take into account all levels of risk within the APVMA's regulatory jurisdiction. We have noted that the ANAO audits of the APVMA in 1997-98 and 2006 recommended that risk management in the agvet sector required improvement, particularly in the area regarding appropriate allocation of resources for low risk products. The Government's intention to implement an appropriate risk management framework being long overdue is therefore greatly welcomed.

Recognition for products of low regulatory concern

Of key concern to Accord members is the development of an appropriate risk management framework which recognises products of low regulatory concern and provide the appropriate controls to manage those risks. Accord notes that new provisions are intended to allow the APVMA to only consider trade and efficacy risks associated with agricultural chemical products in circumstances where it is relevant to the product being assessed. We see no reason why the discretion could not be extended to all other matters with which the APVMA must be satisfied and not just trade and efficacy. This would then enable the APVMA to accept self-assessment for certain classes of product based on agreed criteria.

Further, it should be mandated that when the APVMA considers matters with regard to granting or refusing an application that the APVMA must also apply the least burdensome regulatory requirements to adequately protect against the products risk. This is not unique as it is currently a requirement for the US Environmental Protection Agency (EPA) under its Toxic Substances Control Act (TSCA) and should be adopted in Australia as a matter of course.

In general Accord members supply into the marketplace products which are low risk, well characterised agvet and domestic use products. As such, they require a lower level of regulatory intervention, which should be reflected in the cost recovery arrangements applied by regulatory agencies. In particular there should be a reconsideration of the application of the levy on the turnover of goods sold. In general, many of these low risk products are high volume consumer goods requiring little interaction with the regulator, but nevertheless a levy is still imposed on each and every sale. The application of a flat levy on the sale of goods amounts to cross subsidisation by low risk products of high risk, high intervention products and is inconsistent with Government's cost recovery policy.

The APVMA's risk based management framework should re-allocate its assessment effort commensurate with the level of risk. Accord's work with the APVMA in developing a lighter regulatory touch for dairy sanitisers under the COAG reform process has led us to believe that this will be a very difficult process unless there is appropriate policy oversight and direction, leading to organisational cultural change.

The Bill should reference acceptable authorities and entities, decisions, monographs, regulatory tools etc which are acceptable alternatives to the current registration and assessment process. There is not enough flexibility within the current structure to adopt decisions from comparable regulatory authorities even within Australia or to develop processes such as self-assessment as New Zealand has done. Through this process, group standards are developed on the basis of risk and products meeting those risk characteristics must adhere to the controls within the standard. The suite of controls is comprehensive, but subject to industry self-classification of risk. This is one model of risk management for low risk products which is working well in New Zealand and should be seriously considered as a model in Australia.

Cleary there is a need to develop a comprehensive regulatory approach to dealing with low risk products so that the APVMA can deal with more pressing issues. In the policy development phase, suggestions such as adopting an approach similar to that used in the United States which gives preferential assessment timeframes for products which meet predefined hazard criteria was made, yet we can see no reference to how the APVMA might adopt more streamlined approaches based on either overseas experiences or adopting decisions for comparable regulatory agencies.

Industry supports the APVMA's concept of a model or template approach which appears to be similar to that as used in the United States. Alternatively, the model adopted by the TGA for its listed category products could also be adopted for low risk products which are well characterised and have a safe history of use. More use could be made of industry self-assessment such as for minor changes to product formulation, as should label changes without the need for re-assessment by the APVMA and additional payment of fees.

Re-approvals and re-registration

Accord does not accept that the current regulatory system is in need of a mandatory scheme for the re-registration or continuation of approvals for active constituents and registering of chemical products. Australia as a net importer of goods, should leverage off similar work currently being undertaken by comparable advanced economies rather duplicate effort. In this area, the proposal as such will only introduce more uncertainty into the market and provide less predictability while increasing costs. This proposal will not meet the general aim of the reform to encourage the development of modern and safer chemicals through cutting unnecessary red tape.

This proposal is not reform, it will add red tape to an already complex system and will drive down innovation. Accord's view is that the existing chemicals review process needs to be more efficient and effective rather than introducing a new layer of bureaucracy and potentially leaving certain decisions regarding defining contemporary standards for existing products to the discretion of some individuals. As part of the COAG principles for regulatory best practice, good regulation minimises the exercise of bureaucratic discretion. In this case it must not be allowed to play a part in determining safety concern for existing products, and must be subject to rigorous independent scientific scrutiny.

Yours sincerely

Bronwyn Capanna
Executive Director

19 December 2012

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Amway of Australia Pty Ltd
Apisant Pty Ltd
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November 2012