



14 June 2017

Committee Secretary  
Senate Standing Committee on Community Affairs  
PO Box 6100  
Parliament House  
Canberra ACT 2600

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Dear Chair

### **Inquiry into Industrial Chemicals Bill 2017 and related Bills - Animal testing ban**

We thank the Committee for the opportunity to comment on the *Industrial Chemicals Bill 2017*. However, considering the high degree of public interest in this legislation we feel the timeframe for making public submissions to this Inquiry was far too short, effectively amounting to just seven business days. We understand there was public consultation on the Government's policy underpinning the proposed legislation, but the drafting of the Bill presents further issues of public interest that warrant a far longer period for making submissions. We strongly recommend the period for public submissions be extended.

RSPCA Australia is only seeking to comment on ss.103 and 168 of the Bill pertaining to the purported ban on the use of animal test data to support the introduction of chemicals used in cosmetics.

Subjecting animals to painful and lethal testing for cosmetic purposes is fundamentally unethical and widely unacceptable to the Australian community. Such testing has no place in modern-day Australia, nor do the products and ingredients which derive from such testing. RSPCA Australia is encouraged to see this basic policy position accepted and embraced by major parties across the political spectrum and we commend all parties for taking this important stance.

We are however concerned about whether the proposed drafting of ss.103 and 168 of the Bill will achieve its intended objective. As currently drafted, the ban is very narrow in application, only applying to those chemicals used 'solely in cosmetics'. The Bill allows animal testing for cosmetic ingredients provided those ingredients are also used for some other purpose.

It is difficult to describe this as a 'ban.' For instance, even if a substance was intended to be used 99% for cosmetic purposes, it would still fall outside the scope of the ban, if 1% of the substance's use was intended for therapeutic purposes. This exception for multiple and re-purposing of a chemical substance must be carefully addressed to avoid subversion of the legislation's intent. We have serious concerns that the current drafting of the Bill fails to achieve this. We provide our recommended amendments to rectify this situation below.

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### Safeguards must be provided around multi/re-purposing exceptions

RSPCA Australia is not opposed to the ‘repurposing exception’ in principle. If animal testing has already taken place for a legitimate purpose, there is no additional harm caused to animals by virtue of those data being used for cosmetic products provided the subsequent cosmetic use did not in any way provide an incentive for the initial animal testing to take place. However, safeguards must be implemented to ensure this exception cannot be used to subvert the intention of the ban. If this does not occur the ban will have little practical effect and will not give Australian consumers the assurances they are seeking.

We note that part of the Government’s commitment to banning the use of animals in cosmetics testing was to create measures equivalent to those operating in the European Union. However, the ban contained in the EU Cosmetics Regulation is not expressly limited to chemicals used ‘solely in cosmetics’. Instead, the definition of ‘cosmetic product’ in the EU Regulation means those substances used ‘exclusively or mainly’ for cosmetic purposes. This has the effect of limiting multi/re-purposing exceptions as it will also capture substances used for other purposes, provided the cosmetic purpose is the ‘main’ purpose for the substance.

RSPCA Australia believes it is critical to the integrity of the proposed legislation that similar limitations on multi/re-purposing exceptions are included in the Bill. To provide the community with reasonable assurances that a ban on cosmetic testing on animals has in fact been implemented in Australia, the scope of ss.103 and 168 of the Bill should be broadened to include chemicals used ‘solely *or substantially*’ in cosmetics. This amendment would bring the Bill more into line with EU law and community expectations, consistent with the Government’s election commitment.

**Recommendation:** Broaden scope of ban in ss.103 and 168 to include chemicals used ‘solely *or substantially*’ in cosmetics.

We also note the Department of Health has stated that there has been ‘no shift towards using cosmetic chemicals for other industrial uses to subvert the ban’ since the EU ban came into effect in 2013 (see Department of Health, ‘Q&A’s’ <http://www.health.gov.au/internet/main/publishing.nsf/Content/ban-cosmetic-testing-animals>). RSPCA Australia would like to know what evidence the Department relied on to make this statement. If means for producing such evidence exist in Europe, they should be adopted equally in Australia.

Finally, we note the nature of the ban in ss.103 and 168 will be heavily shaped by the ‘circumstances prescribed by the rules’. We would like to see these rules provide further safeguards around the multi/re-purposing exceptions and trust there will be due community and stakeholder consultation in their development.

We trust this submission has effectively conveyed our concerns. We commend the Government for taking action to ban cosmetic testing on animals and hope the necessary amendments will be made to ensure this vital opportunity is not missed. Please do not hesitate to contact my office if you would like further information.

Yours sincerely,

Heather Neil  
Chief Executive Officer  
RSPCA Australia