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

By email only: rrat.sen@aph.gov.au

Dear Standing Committee Members

**Additional information provided to RRAT Committee inquiry on the
independence of regulatory decisions made by the Australian
Pesticides and Veterinary Medicines Authority (APVMA)**

On behalf of Animal Medicines Australia (AMA), I was pleased to have the opportunity to address members of the Standing Committee on 7 December 2018.

Further to information requests from Senator Rice, and Senator Sterle, on governance options and alternatives for the APVMA I can provide the following:

1. Background

An APVMA Board is proposed to be established by amendments within the *Agricultural and Veterinary Chemicals Legislation Amendment (Operational Efficiency) Bill 2017*¹. The revised supplementary explanatory memorandum² states:

“Establishing an APVMA Board will help strengthen the APVMA’s governance arrangements to address operational, financial and performance deficiencies within the organisation. The board will replace the Chief Executive Officer as the accountable authority under the *Public Governance, Performance and Accountability Act 2013*, and will set the APVMA’s strategic direction, drive its operational performance, set an appropriate risk framework and ensure greater accountability” (*underlining added*).

¹ https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r6004

² https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r6004

AMA welcomes initiatives that improve the governance, transparency, and accountability of the APVMA, however, we consider that the decision-making process to institute a new APVMA board could have been improved through a comprehensive and rigorous analysis of all options available to the government. This would ensure that the option with the greatest net benefit to the community could be selected.

2. Governance structure options

In considering governance structures for government entities, it is useful to refer to the *Review of Corporate Governance of Statutory Authorities and Office Holders*³ (the Uhrig Review). The final report was handed to the Prime Minister and the Minister for Finance and Administration in June 2003.

The terms of reference required an examination of the relationships between statutory authorities and the responsible minister. The purpose of the review was to assist in improving the performance of these bodies, without compromising their statutory duties.

The Uhrig Review recommended more formal reporting requirements for agencies, two new central agencies to monitor the governance of statutory authorities, and the application of either an 'executive management' or 'board' template.

The Government's response was released on 12 August 2004⁴ and noted:

"The report recommends two templates designed to ensure good governance exists: one where governance can best be provided by 'executive management', and the other where it can best be provided by a 'board'.

Both templates detail measures for ensuring the boundaries of responsibilities are better understood and that the relationship between Australian Government authorities, Ministers and portfolio departments is clear.

The Australian Government has endorsed the governance principles and templates developed by Mr Uhrig and as a result Ministers will assess statutory authorities and other bodies within their portfolios against these principles".

The following context and historical information are provided on the APVMA website.⁵

"The APVMA is an Australian government statutory authority, employing approximately 150 people. The authority exists within the portfolio of the Minister for Agriculture.

The APVMA is a corporate Commonwealth entity constituted by an executive manager, the Chief Executive Officer, who has responsibility for the management and governance of the authority. As of 1 July 2014, the APVMA is subject to financial regulation under the [Public Governance, Performance and Accountability Act 2013](#). APVMA staff are engaged under the [Public Service Act 1999](#).

³ <https://www.finance.gov.au/sites/default/files/Uhrig-Report.pdf>

⁴ https://parlinfo.aph.gov.au/parlInfo/download/media/pressrel/Y8GD6/upload_binary/y8gd62.pdf;fileType=application%2Fpdf#search=%22media/pressrel/Y8GD6%22

⁵ <https://apvma.gov.au/node/3191>

Prior to 1 July 2007 the APVMA's focus and strategic direction was determined by a Board of Directors. The reform of the APVMA's governance arrangements to an Executive Management model followed an Australian Government review of the corporate governance arrangements for statutory authorities and office holders—Review of the Corporate Governance of Statutory Authorities and Office Holders (the 'Uhrig Review'). Government policy for the corporate governance arrangements for statutory authorities is set out in the document [Governance Arrangements for Australian Government Bodies](#)".

AMA notes that the current letter of expectations between the previous Minister and the APVMA dates from 19 December 2014⁶. In its 14 November 2018 submission AMA recommended to the Standing Committee that the letter of expectations between the Minister and the APVMA be refreshed.

3. Best practice regulatory principles

AMA follows a disciplined approach to best practice regulatory principles and approaches. We recognise a number of government policy and guidance statements that provide helpful direction. These are identified below and provide some clarity on approaches to the government's Deregulation Agenda.⁷

- COAG Principles of Best Practice Regulation⁸; and
- Ten Principles for Australian Government Policy Makers.⁹

These best practice guidelines provide a useful framework for considering and analysing governance options for fully cost-recovered regulators such as the APVMA. The guidelines outline multiple steps for addressing any particular issue, including:

- establishing a case for action before addressing a problem;
- a range of feasible policy options must be considered, and their benefits and costs assessed; and
- adopting the option that generates the greatest net benefit for the community.

4. Further robust analysis needed

It is beyond the scope of this response to explore and evaluate the range of governance options for the APVMA. However, AMA contends that a robust approach did not appear to be undertaken to inform the decision to implement an APVMA Board.

The Standing Committee may wish to request and review information that provides insight into the policy development process. Such a review could include establishing the rationale for changing the APVMA model from 'executive management' to a 'board' and whether this is complementary to Australian Government policies for governance of statutory authorities.

⁶<http://www.agriculture.gov.au/SiteCollectionDocuments/about/deregulation/apvma-letter-expectation-december-2014.docx>

⁷ <https://www.jobs.gov.au/deregulation-agenda>

⁸ <https://www.pmc.gov.au/resource-centre/regulation/best-practice-regulation-guide-ministerial-councils-and-national-standard-setting-bodies>

⁹ [The Australian Government Guide to Regulation, 2014 Canberra](#)

AMA remains concerned that instituting a board inserts an unnecessary hierarchical layer without necessarily achieving efficiency or effectiveness outcomes.

I trust this information is of assistance to the Standing Committee. If I can provide additional information please do not hesitate to contact me.

Yours Sincerely

Ben Stapley
Executive Director