



Advocate for the Consumer, Cosmetic,
Hygiene and Specialty Products Industry

European Commission
Unit ENTR F/3, Cosmetics and Medical Devices
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Belgium

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Dear Sir/Madam

Public Consultation on the Simplification of the Cosmetic Directive

I am pleased to provide ACCORD Australasia's comments on the Public Consultation on the Simplification of the Cosmetic Directive 76/768/EEC. As the due date for comment on the public consultation period closed on 16 March 2007, I apologise for the delay in providing ACCORD's comments.

ACCORD Australasia is the peak national industry association representing the manufacturers and marketers of formulated consumer, cosmetic, hygiene and specialty products, their raw material suppliers, and service providers. ACCORD Members market fast-moving consumer and commercial goods primarily in Australia and New Zealand.

Our industry's products play a vital role in:

- keeping our households, workplaces, schools and institutions clean, hygienic and comfortable;
- personal hygiene, grooming and beauty treatments to help us look and feel our best;
- specialised uses that assist production and manufacturing to keep the wheels of commerce and industry turning; and
- maintaining the hygienic and sanitary conditions essential for our food and hospitality industries and our hospitals, medical institutions and public places.

These benefits are essential to safe, healthy living and maintaining the quality lifestyle we all too often take for granted.

With an estimated \$10 billion in annual retail product sales, the formulated consumer, cosmetic, hygiene and specialty products industry is a significant part of a prosperous Australian economy. We are a dynamic and growing industry, employing Australians and - through our industrial and institutional sector - supplying products essential for Australian businesses, manufacturing firms, government enterprises, public institutions, farmers and consumers.

Our industry has more than 50 manufacturing operations throughout Australia and New Zealand. Member companies include large global consumer product manufacturers to small dynamic

Australian-owned businesses. ACCORD and its members have an interest in the proposed reform proposals for the Cosmetics Directive and welcome initiatives aimed at reducing the regulatory burden faced by industry.

A full list of current ACCORD member companies is provided at *Attachment 1*.

The cosmetics industry is global, characterised by companies marketing branded products across international boundaries. Australia is impacted by changes to international legislation of cosmetic products, with many cosmetics imported as fully formulated and packed products.

The industry is an extremely competitive one, with high levels of innovation, high product turnover and market driven style changes. The cosmetics industry, because of its competitive nature takes measures to ensure product safety above regulatory requirements. Market reality ensures that an unsafe product will destroy a brand and have a significant detrimental impact on a company.

To this extent, the fundamental regulatory framework established under the Cosmetics Directive remains effective. While ACCORD welcomes the review of the Cosmetics Directive with a view to simplification and reduction of the regulatory burden, the Discussion Paper identifies a range of new proposals which will increase rather than decrease the regulatory burden on the cosmetics industry. For example, the focus on additional safety data requirements and a new system of cosmetovigilance indicate an increase rather than a simplification of the current arrangements.

The EU has the scope to improve the efficiency and effectiveness of these regulatory controls. There has not been any demonstrable market failure of the current system, therefore ACCORD does not believe that additional regulatory controls which impose an additional cost burden on the industry are justified without adequate impact and cost benefit analysis to demonstrate market failure and justify additional regulatory interventions.

With global markets having expanded and the principle of regulatory harmonisation adopted by many governments, multinational companies aim to develop and sell new products around the world as quickly as possible and with minimal regulatory intervention. The development of unique regulatory requirements is therefore to be avoided, as it will not aid in the development of global trade.

For example, the EU's recent decision regarding the ban on animal testing has resulted in a unique EU requirement, which may have a potentially detrimental effect on the EU cosmetics export industry in that European data may not be seen as adequate to meet Australian regulatory requirements given that acute oral toxicity still does not have an acceptable alternative method. This issue is not likely to be resolved in the short term and could have consequences for European industry wishing to export to Australia with products containing *new chemicals* requiring full Australian notification and assessment. In the absence of adequate data these products may not be able to satisfy the regulatory requirements and thus not be able to be sold in the Australian marketplace.

Regulatory principles

The annual growth in regulation for all Australian jurisdictions has been estimated by industry to be 10%. This is more than twice the rate of Australia's economic growth. This regulatory growth comes at a cost, much of which is passed directly onto business, which in turn is passed onto the consumer. A more efficient regulatory system will deliver benefits to the entire community through lower costs creating a business operating environment which will stimulate growth, create better employment opportunities and foster enhanced competitiveness and innovation. To this end,

ACCORD has taken a keen interest in the Australian Government's regulatory reform processes, and has participated actively in review processes.

ACCORD supports the Australian Government's approach to regulatory best practice. Implicit in this framework, is a commitment by Australian Government Ministers and their departments to carefully consider at an early stage the case for acting in response to a perceived problem, including addressing the fundamental question of whether regulatory action is required, or whether the policy objectives can be achieved by alternative, non-regulatory measures which would lower costs to business and the economy.

ACCORD supports the following as good regulatory practice principles to be applied internationally.

Regulatory solutions should:

- be the minimum required to achieve the stated objectives;
- adopt a risk management approach to forming and administering regulation;
- minimise the impact on competition;
- be compatible with international standards and practices;
- cause no restriction to international trade;
- be developed in consultation with the groups most affected and be subject to regular review;
- be flexible, not prescriptive and be compatible with the business operating environment;
- standardise the exercise of bureaucratic discretion; and
- have a clear delineation of regulatory responsibilities and effective and transparent accountability mechanisms.

Application of Risk Management

ACCORD believes that regulatory efficiency can be improved through the appropriate application of risk management. Effective risk resource management ensures that resources are directed to the areas of greatest need. It also ensures that regulatory agencies fully understand their business priorities through a thorough analysis of the internal and external environment. Risk management is regarded as the systematic application of management policies, procedures and practices to the tasks of identifying, analysing, assessing, treating and monitoring risk.

Risk management is a logical and systematic process that can be used when making decisions to improve the efficiency and effectiveness of performance. It is a management tool to identify and prepare for contingencies. Managing risk involves taking action to avoid or reduce unwanted exposure to the costs or other effects of these events, or to maximise the potential of any opportunities identified.

The benefits of prudent risk management are:

- a more rigorous basis for strategic planning as a result of a structured consideration of the key elements of risk;
- no costly surprises - because undesirable risks are identified and managed;

- better outcomes in terms of program effectiveness and efficiency, e.g. improved client service and/or better use of resources;
- greater openness and transparency in decision-making and ongoing management processes; and
- a better preparedness for, and facilitation of, positive outcomes from subsequent internal/external review and audit processes.

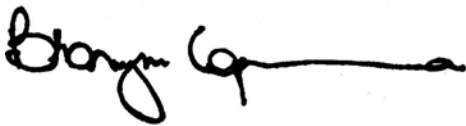
Therefore, to get the best outcomes of the EU's proposed simplification of the Cosmetics Directive, a structured approach is required which is risk-based, non-discriminatory and delivers the minimum effective outcome to achieve the desired results. As noted previously, there are aspects of the public consultation document which appear to contradict these best practice principles for minimum effective regulation and appear to be imposing higher level of regulatory control without adequate justification and demonstration of the need for higher levels of public health and safety than currently exists in the marketplace.

As a matter of good regulatory practice, we would urge the EU to work closely with industry during the reform process and to work in partnership with industry in achieving the desired outcomes for a simplified Cosmetic Directive as part of the reform process.

ACCORD, on behalf of its member companies, has a specific and direct interest in regulation reform processes which will deliver real and meaningful outcomes for our members resulting in reduced compliance costs and red tape reduction. To this end, ACCORD, on behalf of its member companies, is pleased to have the opportunity to provide these general comments for consideration as part of the public consultation process.

We look forward to the next steps where we may see some more concrete proposal for reducing the regulatory burden together with some data of the expected costs savings to industry through the reform process.

Yours sincerely

A handwritten signature in black ink, appearing to read "Bronwyn Capanna", with a long horizontal flourish extending to the right.

Bronwyn Capanna
Executive Director

19 March 2007

Members

Consumer, Cosmetic and Personal Care:

Alberto Culver Australia	Kao (Australia) Marketing Pty Ltd
Amway of Australia Pty Ltd	Keune Australia
Apisant Pty Ltd	Kimberly Clark Australia
Aroma Science	La Bioesthetique Australia
AVON Products Pty Limited	La Prairie Group
Baylor Limited	L'Oreal Australia Pty Ltd
Beiersdorf Australia Ltd	LVMH Perfumes and Cosmetics
Chanel Australia	Nutraceuticals Australia
Clorox Australia Pty Ltd	Procter & Gamble Australia Pty Ltd
Colgate-Palmolive Pty Ltd	PZ Cussons Pty Ltd
Combe Incorporated (Australia)	Reckitt Benckiser
Cosmax Prestige Brands Australia Pty Ltd	Revlon Australia
Cosmopolitan Cosmetics Pty Ltd	Scental Pacific Pty Ltd
Coty Australia Pty Limited	Shiseido (Australia) Pty Ltd
Creative Brands Pty Ltd	Skin Doctors Cosmeceuticals
Dermologica Pty Ltd	Steric Pty Ltd
Elizabeth Arden Australia	Thalgo Australia
Emeis Cosmetics Pty Ltd	The Heat Group Pty Ltd
Estée Lauder Australia	Tigi Australia Pty Ltd
Frostbland Pty Ltd	Trilogy Products
GlaxoSmithKline Consumer Healthcare	Trimex Pty Ltd
Helios Health & Beauty Pty Ltd	Unilever Australasia
Innox Pty Ltd	YSL Beaute
Johnson & Johnson Pacific	

Hygiene and Specialty Products

Albright & Wilson (Aust) Ltd	Huntsman Corporation Australia Pty Ltd
Applied Australia Pty Ltd	Jalco Group Pty Limited
Callington Haven Pty Ltd	Lab 6 Pty Ltd
Campbell Brothers Limited	Milestone Chemicals Pty Ltd
Castle Chemicals Pty Ltd	Novozymes Australia Pty Ltd
Castrol Australia Pty Ltd	Nowra Chemical Manufacturers Pty Ltd
Chemetall (Australasia) Pty Ltd	Peerless JAL
Chemform	Recochem Inc
Ciba Specialty Chemicals	Rohm and Haas Australia Pty Ltd
Clariant (Australia) Pty Ltd	Solvay Interox Pty Ltd
Cleveland Chemical Co Pty Ltd	Sonitron Australasia Pty Ltd
Deb Australia Pty Ltd	Sopura Australia Pty Ltd
Dominant (Australia) Pty Ltd	Tasman Chemicals Pty Ltd
Ecolab Pty Limited	Thor Specialties Pty Limited
E Sime & Company Australia Pty Ltd	True Blue Chemicals Pty Ltd
Henkel Australia Pty Limited	Whiteley Corporation Pty Ltd

Associate Members

Specialist Laboratories and Testing

ams Laboratories

Dermatest Pty Ltd

Silliker Microtech Laboratories Pty Ltd

Equipment and Packaging Suppliers

EquipNet Inc.

Hydro Nova Controls

Insignia Pty Ltd

SCHÜTZ DSL Group Pty Ltd

Logistics

Star Track Express Pty Ltd

Legal and Business Management

Middletons Lawyers

Price Waterhouse Coopers

Regulatory and Technical Consultants

Archer Emery & Associates

Cintox Pty Ltd

Competitive Advantage

Engel Hellyer & Partners Pty Ltd

Robert Forbes & Associates

Sue Akeroyd & Associates

March 2007