Accord submission to the National Commission of Audit

A full root-and-branch review of Commonwealth government expenditure and the overall efficiency of the public sector activities and programmes has been needed for some time.

This Audit is therefore a very welcome initiative.

As noted in the terms of reference, the size of government has expanded significantly over the last two decades, and from the perspective the 100 member businesses that make up Accord, nowhere more so than in the area of regulation.

The 2008 Productivity Commission study of chemicals and plastics regulation documented the complexity of the existing regulatory system; something our member businesses can attest to as they attempt to go about their daily business.

The primary purpose of this brief submission is to highlight to the Audit:

1. specific issues relating to cost-recovered regulatory agencies, which could foreseeably been seen to be outside of the scope of this Audit for the simple reason that they are funded, usually 100%, by fees and charges on the regulated industry; and,

2. the potential cost-savings to government, industry and the economy of removing unnecessary, duplicative and excessive regulation; particularly of low-risk products that have already been subject to regulation in other advanced economies, such as the EU, USA and Canada.

While the policy intent behind Australia's current 100% cost-recovery is the 'user pays principle', it is sobering to note that the majority of funding for our sector's agencies is obtained via across-the-industry fees & levies (the equivalent of taxes), rather than service charges for applications and approvals.

The cost-recovered agencies impacting upon our sector are:

- The National Industrial Chemicals Notification and Assessment Scheme (NICNAS)
- The Therapeutic Goods Administration (TGA)
- The Australian Pesticides and Veterinary Medicines Authority (APVMA)

Based on our industry's experience, Accord strongly believes that the current system allows agencies to treat industry as a 'cash cow' to fund ongoing expansion of regulatory programmes.

Additionally, we are concerned that portfolio departments facing potential cuts arising from the current fiscal situation and possible recommendations from this Audit may be tempted to engage in cost-shifting of some activities to these cost-recovered regulatory agencies.

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Ultimately, productivity is strongly linked to fiscal restraint and finding ways of doing more with less. These realities are felt every day in the business world and hopefully will be increasingly so across the broader public sector

However, it is an anachronism that agencies like NICNAS, TGA and APVMA have been effectively quarantined from these realities by the 100% cost recovery policy.

For these reasons we believe an urgent review of the current cost-recovery policy should be undertaken in 2014 in order to determine how to reform the policy so that it supports more efficient and effective regulators.

In this regard, we need do no more than paraphrase this Audit's terms of reference as follows to provide a framework for much-needed improvement in the efficiency of cost-recovered agencies:

- Ensure the industry funding the regulatory agency is receiving value-for-money for every dollar spent;
- Eliminate wasteful spending (by ensuring regulation is targeted according to risk and over-regulation and unnecessary red tape is removed);
- Identify areas of duplication between regulatory agencies and other government and industry programmes;
- Identify areas where the involvement of the regulatory agency is inappropriate, no longer needed, or blurs the lines of accountability;
- Improve the overall efficiency and effectiveness with which cost-recovered regulatory agencies operate.

Many industries, apart from that represented by Accord, could benefit from a reformed funding approach for such regulators.

As a start it is suggested that the Audit consider the option for a 'funding freeze' on cost-recovered agencies, pending a more detailed review by the Government of the overall cost-recovery funding model and arrangements.

This proposal is element 7, in the following specific regulatory improvement 'Action Plan' which Accord has proposed:

Regulatory Improvement 'Action Plan' for Accord sector businesses
Category 1 - for immediate action
1) Recognise administratively the European Union's approach for flexibility in 'unit measure' placement rather than current rigid imposition of 'front-of-pack' placement via the National Measurement Institute (NMI) 2) Extend the GHS implementation deadline for downstream formulated mixture products, ideally to 2020 3) Extend the existing Dangerous Goods transport exemption from inner-package, transport-specific hazard diamonds which has been granted for GHS-labelled industrial products to *all products that are labelled according to APVMA, TGA and/or consumer product labelling requirements*
Category 2 - for action finalisation and implementation commencing in 2014
4) Reform of the National Industrial Chemicals Notification and Assessment Scheme (NICNAS) – currently the industrial chemicals and cosmetics regulator – in line with the recommendation of the 2008 Productivity Commission (PC) report which proposed: o NICNAS's role limited to *"the scientific assessment of the hazards and risks of industrial chemicals"* and;

- cosmetic product regulation be transferred from NICNAS to the ACCC

5) Low-risk product categories 'lighter touch' regulation reforms – with key categories for our sector being:
    - Hard-surface disinfectant cleaners
    - SPF15+ and greater sunscreens
    - On-farm dairy sanitisers and cleansers
    - Polymer ingredients of low concern
6) Develop and commence implementing a *'regulatory equivalence'* recognition policy for low-risk products/ingredients, particularly cosmetics & household cleaners, that have already been allowed onto the market in other advanced economies – EU, USA, Canada & NZ (possibly into the future Japan & Korea)

Category 3 - for policy planning in 2014 and implementation in 2015

7) Review and reform the current policy for 100% cost-recovery of regulatory agencies from industry, implementing changes which will halt ongoing increases in agency expenditure, staffing and costs to the regulated industry

While these actions will reduce costs to businesses that arise directly from compliance in meeting unnecessary or poorly targeted regulation as well as indirectly as barriers to innovation, investment and global trade, their implementation will also of course free up resources within both agencies and policy departments.

Perhaps one aspect that has held back attempts at regulatory reform over last decade has been the failure by government departments and agencies to adequately recognise that such reforms are also efficiency opportunities for 'their business' that should ideally help them do their job better and in a more targeted manner.

We wish the Audit team well in undertaking this important, but mammoth, task.

[redacted]

26 November 2013