Dear Madam/Sir

Accord Australasia is pleased to provide the following comments in response to the Business Regulation and Competition Working Group stakeholder consultation paper Future COAG Regulatory Reform Agenda. We appreciated the opportunity to provide input to the regulatory reform agenda through our attendance at the recent stakeholder consultation forum held in Sydney. Our written comments supplement the views expressed at the stakeholder forum.

Accord Australasia is the peak national industry association representing the manufacturers and marketers of formulated hygiene, cosmetic 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.

The formulated hygiene, cosmetic and specialty products industry is a significant industry sector contributing to a prosperous Australian economy. Our industry’s products include household and commercial cleaning agents; disinfectants; make-up and beauty products; toiletries and personal care products; hair-care products; skincare products, including sunscreens; oral hygiene; fragrances and perfumes, feminine hygiene products; industrial and agricultural sanitisers; household pest control; and adhesives and sealants.

Sector products play a vital role in:
- **Safeguarding public health**: Maintaining essential standards of hygiene and sanitation in institutions, hospitality, manufacturing and agriculture.
- **Promoting personal well-being**: Helping people keep clean, healthy and shielded from harmful effects of the environment.
- **Maintaining comfortable homes**: Enabling people to keep their everyday surroundings clean and inviting.
- **Enhancing quality of life**: Giving people greater personal freedom through time- and effort-saving technologies.
- **Boosting confidence and emotional wellbeing**: Providing opportunities for self-expression, individuality and pampering.
- **Keeping the wheels of commerce and industry turning**: Fulfilling specialised uses in industry, institutions and agriculture.

Accord has around 94 member companies which range from smaller Australian-owned family businesses to the local operations of large consumer brand multinationals (a full membership list is provided at Attachment 1).

Headline features and statistics for our industry’s economic footprint include:
• Estimated annual retail-level sales of industry products nudging the $10 billion mark.
• Accord member companies directly contribute more than 14,000 full-time equivalent jobs.
• Nationally more than 170 offices and more than 50 manufacturing sites are operated by Accord member companies.

Our sector is highly regulated with a recent internal Accord survey of members showing that:
• 97 percent have dealings with the National Industrial Chemicals Notification & Assessment Scheme (NICNAS)
• 77 percent with the Therapeutic Goods Administration (TGA)
• 58 percent with the Australian Quarantine Inspection Service (AQIS)
• 39 percent with the Australian Pesticides & Veterinary Medicines Authority (APVMA); and
• 33 percent with Food Safety Australia New Zealand (FSANZ).

In essence there are three distinct product segments for our industry, each with distinct supply chains through to the product end user:
• Industrial and Institutional products (e.g. commercial cleaning products, agricultural sanitisers) which are mainly sold on a business-to-business or business-to-government basis or through agricultural product resellers.
• Fast-moving consumer goods (e.g. household cleaners, laundry detergents, toothpaste, shampoo, soap) which are sold to consumers primarily via either: grocery retailers, pharmacies, mass-market retailers, direct selling and hardware chains.
• Cosmetic and beauty industry products (e.g. make-up, skincare, sunscreens, fragrances, hair dyes) which are sold to consumers primarily via either: department stores, specialty retailers, grocery retailers, pharmacies, mass-market retailers, direct selling, hair salons, beauty salons, spas and on-line.

The chemicals and plastics industry has been under constant review since 1996 commencing with the Bell Review. The report of the Small Business Deregulation Task Force recommended that the Commonwealth Government send a reference to the Productivity Commission (PC) to inquire into and report by 31 December 1997 on the most efficient and effective institutional and regulatory arrangements for industrial, agricultural and veterinary chemicals. The Government established a Chemicals and Plastics Action Agenda and, in 2002 in response to the Report of the Chemicals and Plastics Leadership Group, committed itself to amongst other things reducing unnecessary regulation. As a result of the Banks Review in 2006, the chemicals and plastics industry became one of COAG’s top ten national ‘hot spots’ in the National Reform Agenda, a Ministerial Task Force on Chemicals and Plastics Regulation was formed and in 2007 the PC was asked to undertake the research study into chemicals and plastics regulation. The PC’s Research Report on Chemicals and Plastics Regulation was released in July 2008 and COAG provided its interim response in November 2008. The last progress report on implementation of the PC recommendations by the Standing Committee on Chemicals (SCOC) in August of this year advised that 4 of the 30 recommendations had been implemented.

With all this attention on the chemicals and plastics sector, one could assume that the industry would have seen some outcomes and that it would be reasonably satisfied that COAG was addressing industry concerns. Instead, the scrutiny to which our sector has been subjected would seem to have only increased the cumulative burden of regulation, added costs to business operations, made trade more difficult and in general provided a disincentive to innovation. Efforts to develop measures to achieve a more streamlined and nationally harmonised control system for the management of chemicals and plastics regulation have, for the most part, failed to deliver.

Our industry’s single biggest problem remains Australia’s costly, complex and fragmented regulatory system for the management of chemicals across jurisdictions.
Despite this, we still hope for meaningful reform. We welcome the recent announcement of the Better Regulation Ministerial Partnership between the Minister for Finance and Deregulation and the Minister for Health and Ageing to evaluate and make recommendations on the regulatory settings for the notification, assessment and regulation of industrial chemicals. The review will build on the PC recommendations. We believe this review will provide a great opportunity for kick-starting stalled reform for industrial chemicals within the health portfolio, and we look forward to working in partnership with our industry colleagues and government towards achieving a successful outcome.

We applaud the government’s strong commitment to regulatory reform, reducing the regulatory and compliance burden on business and fostering productivity and innovation. From our members’ perspective however, the failure has been in the delivery, not the policy settings. Much of the Government’s good efforts are unfortunately lost when implementation occurs. For example, despite assurances that industry will benefit from reform and in fact have seen benefits such as those derived from the Australian Consumer Law which is estimated to benefit the economy by $1.5 to $4.5B per annum, Accord members have not as yet, seen these benefits accrue. The new requirements for mandatory reporting have only increased uncertainty in the market place and increased compliance costs due to whole of supply chain pressure and ambiguity in interpretation and application of the reporting requirements.

Again, the benefits to accrue to business from nationally uniform OHS legislation are yet to be realised. A national implementation date of 1 January 2012 does not seem possible. The RIS indicated increased costs on small business operating within their own jurisdictions and for the chemicals and plastics industry specifically there will be increased labelling requirements through the application of the GHS. Australia already has a good system of chemicals classification and labelling in place. For industry therefore to realise any benefits in this area, these will have to be derived from enhanced trade. If we do not align with our major trading partners then this will have just been a costly exercise for little long term benefit. It appears highly unlikely that all jurisdictions will be in a position to commence the new OHS legislation including regulations and codes of practice by 1 January 2012. Transitional arrangements will need to be developed so that additional unnecessary imposts are not incurred by industry.

Before any new reform work is initiated, we believe that proper consideration must be made to the findings of the PC’s current work into Identifying and Evaluating Regulation Reforms. This work will hopefully inform COAG and provide additional information as to whether the COAG Agreed Principles for reform options are adequate or require enhancement.

As the study recently published by the Australian Industry Group (AiG), National CEO Survey: Business Regulation (September 2011), found despite recent renewed effort on regulatory reform, this has not yet translated into meaningful gains. In terms of business regulation close to 70% of AiG respondents have experienced a rise in the past three years in the total cost of complying with regulations (p11).

Of the proposals in the Consultation Document for the second tranche of reforms, we support the following work to improve the competitiveness of the Australian services sector such as the retail sector and transport restrictions. The transport of dangerous goods is particularly problematic for Accord members and we welcome the National Transport Commission’s (NTC) recently announced review to explore the most effective framework for the future regulation of dangerous goods. We believe that this can have significant benefits for Australian industry through greater alignment with international air, sea and road transport requirements, particularly in the development of seamless intermodal transport.
We very strongly support continued efforts for a national framework to deliver regulatory efficiency through a nationally uniform system for significant business regulation in the national interest. Accord supports greater use of the adoption of uniformity rather than harmonisation as an approach to achieve national regulatory approaches. Further, greater use of ‘deemed to comply’ and/or mutual recognition to overcome failings in the harmonised approach could deliver significant benefits to Australian industry operating across jurisdictions. Such provisions have great benefits but these have not yet been fully realised due to the underutilisation of this approach by jurisdictions.

Finally, it is critically important that reform continues to focus on the removal of unique Australian requirements which create unnecessary barriers to trade. Accord strongly supports the principle that international trade considerations be a strong pre-condition in setting reform priorities. Australia’s legal framework for the management of chemicals and plastics derives from the policy settings of the early 1980’s prior to the liberalisation of trade settings which was a feature of the Hawke-Keating Government, e.g. Industrial Chemicals (Notification and Assessment) Act 1989 and Therapeutic Goods Act 1989. Neither of these pieces of legislation take into account trade issues or obligations, and these have not been reviewed since Australia opened its markets and became part of the global market place. Although we note that the industrial chemicals framework will now be reviewed as part of the Better Regulation Ministerial Partnership.

For our particular sector, two further issues remain. We believe that the Government’s own cost-recovery guidelines require reconsideration with input to the policy review process from the affected parties i.e. industry. Australian industry has always supported cost-recovery measures but only if they are efficient and effective and assist with building Australian industry’s competitive advantage. We see little evidence of this in Australia.

Further, we continue to believe Australian regulatory agencies also appear to escape the level of parliamentary and departmental financial and performance scrutiny that is applied to budget-funded agencies. Industry believes that this is due in part to the fact that Australian regulatory agencies are fully cost-recovered. The perception is, these regulatory agencies are allowed to operate outside the Government’s policy framework, particularly in the area of chemical safety policy.

Unlike other sectors, we do not ask for industry welfare handouts – we simply ask for a lighter regulatory touch which reduces the complexity and fragmentation of regulation for our sector.

Should you have any questions in relation to this submission, the contact officer is Ms Dusanka Sabic, Director of Regulatory Reform who can be contacted on 02 9211 8123 or by email at dsabic@accord.asn.au.

Yours sincerely

Bronwyn Capanna
Executive Director

24 October 2011
Members

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Advanced Skin Technology Pty Ltd
Amway of Australia Pty Ltd
Apisant Pty Ltd
AVON Products Pty Limited
Beautiworx Australia Pty Ltd
Beiersdorf Australia Ltd
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Helios Health & Beauty Pty Ltd
Johnson & Johnson Pacific
Kao (Australia) Marketing Pty Ltd
Kao Brands Australia Pty Ltd
Keune Australia
Kimberly-Clark Australia

Hygiene and Specialty Products

Albright & Wilson (Aust) Ltd
Applied Australia Pty Ltd
BP Castrol Australia Pty Ltd
Callington Haven Pty Ltd
Campbell Brothers Limited
Castle Chemicals Pty Ltd
Chemetall (Australasia) Pty Ltd
Clariant (Australia) Pty Ltd
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Deb Australia Pty Ltd
Dominant (Australia) Pty Ltd
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LVMH Perfumes and Cosmetics
Mary Kay Cosmetics Pty Ltd
Natural Australian Kulture Pty Ltd
Nutrimetics Australia
NYX Pty Ltd
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August 2011