



Inquiry into promoting economic dynamism, competition and business formation
House of Representatives Standing Committee on Economics
PO Box 6021
Canberra ACT 2600
Email – economics.reps@aph.gov.au
Attention – Committee Secretary

Dear Madam/Sir,

Accord is pleased to provide this submission to the HoR Economics Committee on the Inquiry into promoting economic dynamism, competition and business formation.

Introducing Accord and our industry

Accord is the Australian national industry association representing the manufacturers and marketers of formulated hygiene, personal care and specialty products, their raw material suppliers, and service providers. Accord member companies make and/or market a broad range of consumer and commercial goods that play integral roles in safeguarding public health, promoting personal hygiene, boosting confidence and emotional wellbeing, maintaining comfortable homes and enhancing quality of life, as well as keeping the wheels of commerce and industry turning.

Our member companies represent a healthy industrial eco-system of large global multinational enterprises, small and dynamic Australian and family-owned businesses, importers, local manufacturers and exporters. A list of Accord member companies is available on our website: accord.asn.au/about/members.

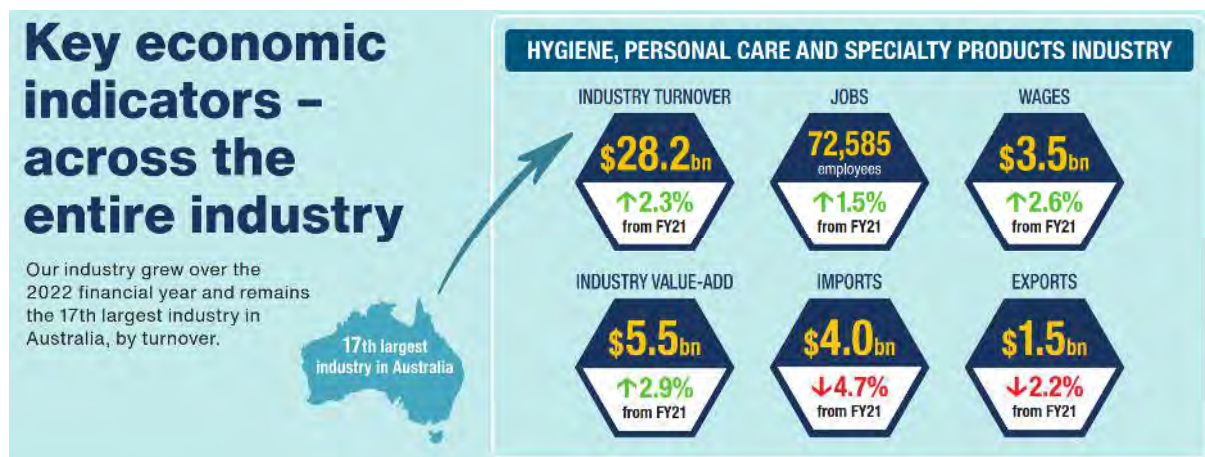
The formulated hygiene, cosmetic, personal care and specialty products industry is a significant industry sector manufacturing and/or importing quality chemical-based products to thereby contribute to a prosperous Australian economy. Our industry's products include household and commercial cleaning agents; household and hospital disinfectants; industrial and agricultural sanitisers; adhesives and sealants; and essential personal care/hygiene products like oral care products, hand sanitisers and sunscreens. Here is a snapshot of our sector's many products:



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Products for healthy living and a quality lifestyle

Our industry sector's economic value and value-add were recently measured by EY with the sector found to be the 17th largest in the nation, having an annual industry turnover of \$28.2B. The sector's headline statistics for its economic footprint are as followsⁱ:



Across the entire hygiene, personal care and speciality products industry supply chain, upstream/downstream and ranging from manufacturing to wholesaling to retailing, EY measured that in FY22 there were 9,598 businesses. And that this number had grown 0.3 per cent on FY21 business levels.

The EY report commissioned by Accord also determined that our sector was for the most part, diverse in production, had a varied client/customer base, and that this led to an overall resilience in the total economic footprint, possible due to periodic downturns in one or more product segments being generally offset by upturns in other product markets.

Though it needs to be noted that EY has measured turnover not profitability. And profitability is the primary factor that has the greatest bearing on the ultimate success and ongoing financial viability, or otherwise, of individual firms within the sector. High inflation and cost-of-living pressures for Australian households remain an ongoing threat to the future commercial health of many of our sector's individual businesses.

Manufacturing is also an important activity for our sector and sixty-seven percent (67%) of Accord's full-member companies conduct manufacturing in Australia using either their own plant/facilities or those of third-party contract manufacturers.

Although it should be noted that across the entire industry, manufacturing remains the smallest of the industry's three supply chain sub-sectors, with annual turnover currently just 31 per cent of that of the wholesaling sub-sector and just 39 per cent of the retailing sub-sector.

Compared to some other industry sectors, the overall situation for the hygiene, personal care and specialty products market is one of healthy competition, generally without the sort of market concentration that may be occurring both downstream and upstream from our industry. For example, in supermarket retailing where three major chains dominate or department stores with just two major players.

Additionally, upstream of our industry is the chemicals industry that supplies most of the raw materials used in our sector's products. Over the years, as production costs and market entry requirements for chemicals manufacturing have increased, and as chemical manufacturing has progressively offshored due to various factors, there has been consolidation in this raw materials market.

This market consolidation both upstream and downstream of our industry has negative consequences on both the price and availability of raw materials, as well as the commercial contractual arrangements for the retail sale to Australian consumers of industry products.

Introducing greater competition in retailing would benefit our sector plus also other key sectors, such as food and beverage manufacturing. Similarly, lowering barriers for new market entrants into chemicals manufacturing and raw material supply would improve both sovereign capability and supply chain certainty for our hygiene, personal care and speciality products manufacturers.

Accord's specific comments on the Inquiry's terms of reference and relevant policy matters

Accord notes the well-targeted terms of reference established by the Treasurer and strongly supports the attention this Inquiry will give to potential policy measures to improve economic dynamism, competition and business formation in the Australian economy. We wish the Committee well in these important deliberations.

In our recent submission to the HoR Standing Committee on Industry, Science and Resources Inquiry into the development of advanced manufacturing in Australia we highlighted the relative lack of complexity inherent in the contemporary Australian economy, as measured by the Observatory of Economic Complexity (<https://oec.world/en>). This organisation's Economic Complexity Indexⁱⁱ has consistently ranked Australia well outside the top-performing league of nations like Japan, Germany, South Korea, Switzerland and the USA and shows an ongoing slide in Australia's complexity ranking from 62nd in 2016 to 74th in 2020.

Though Accord would argue that one area where our nation regrettably leads in relation to complexity measures is in the field of the regulations imposed on our industry by our many layers of government – federal, state and local.

It is noted that the Inquiry's terms of reference cover the issue of regulatory costs as follows: *'The extent to which economic barriers—such as regulatory costs and barriers to finance, infrastructure, suppliers, customers and workers—contribute to rising market concentration and slowing business formation rates in Australia.'*

The 2008 Productivity Commission Study of Chemicals and Plastics Regulationⁱⁱⁱ found that: *'While the regulatory framework has been reasonably effective in achieving public health, workplace safety, environment protection and national security goals, there are many inefficiencies. Governments have regulated chemicals in different ways, even though the hazards and risks they pose vary little across the country, and this has resulted in unnecessary complexity under our federal system.'*

In the long-running 'reform' process arising from the then government's response to this PC study, one of the measures undertaken was to update the overarching chemicals assessment legislation with a new law, the *Industrial Chemicals Act 2019*. While this updated legislation received industry support as simpler and less complex what it replaced, the actual requirements facing firms under the subordinate Rules and Guidelines remain overly complex in administration and enforcement and are often out of step with global best practice, especially for regulation of cosmetic and personal care products.

For this reason, a key strategic goal of Accord as peak body for the Australian hygiene, personal care and specialty products industry, is to work with governments and other stakeholders to foster greater industry productivity and innovation. And, as stated in our soon-to-be-launched, updated strategic framework, this is achieved via *'facilitating economic growth, employment and international trade by promoting efficient, best practice regulation and global regulatory convergence based on sound science'*.

Across Accord's many member businesses that are currently engage in the introduction into Australia of products/technologies, a major barrier they face relates to both the complexity of local regulatory requirements and the ongoing lack of alignment of many Australian regulatory approaches to global best practice.

So, a key question that needs to be asked regularly about any regulation is the following: "is the regulation fit-for-purpose?" In this regard, the concept of fit-for-purpose regulation is two-sided and effective regulation must of course protect the public, workers and the environment from unsafe products and technologies. On this front, and based on Accord's decades long experience, Australia's various regulatory frameworks generally work very well. Overall, consumer safety protection has been satisfactorily achieved.

But there is a flip side to all this. And this relates to the question of whether Australia's existing regulatory approaches are truly fit-for-purpose. Technologies, systems, products and markets are constantly evolving but all too often regulations and regulatory schemes remain static.

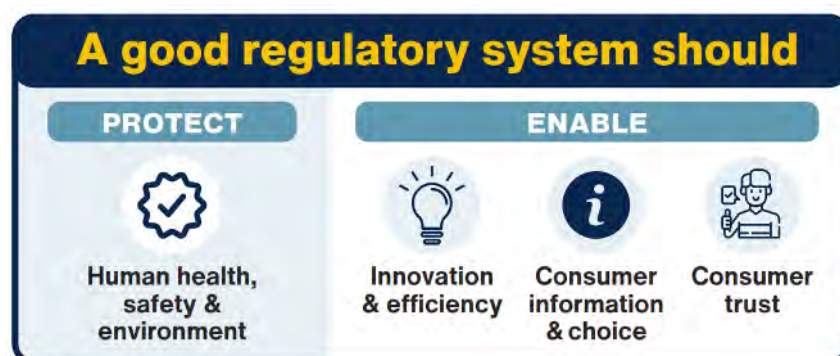
Regrettably, the experience of businesses within our sector continues to show that for many parts of the Australian regulatory system there is still an overabundance of complexity, duplication and unproductive paperwork requirements, often combined with interventions that are not always calibrated appropriately to actual risk.

Technology-rich industries like the hygiene, personal care and specialty products industry require access to the latest ingredients and formulation technologies available globally in order to stay competitive and innovative. It is therefore critical that our existing regulatory frameworks can support, rather than stifle, innovation and investment.

To better illustrate this issue with existing Australian regulation, Accord recently developed and published two related Infographics titled '*Regulation for safety and confidence*' and '*Regulatory complexity and challenges*'.

These are attached as Appendix 2 and members of the Committee are encouraged to review the details they lay out in the context of how to avoid regulation becoming a hidden but detrimental barrier to innovation, investment and market entry.

Some specific elements in these Infographics that warrant highlighting are as follows. The first relates to the features that would characterise a functioning, fit-for-purpose regulatory system for our industry sector:



A further element, already mentioned above, relates to the overall complexity and range of regulatory interventions impacting the industry (with figures mentioned sourced from the 1998 National Profile of Chemicals Management infrastructure in Australia and the 2008 Productivity Commission Study of Chemicals and Plastics Regulation):

Complexity



'The regulation of chemicals and plastics has long been the subject of concerns about inconsistencies, complexity and fragmentation'²

This places a large compliance burden on responsible businesses in the sector, with knock-on effects.

Further illustrating the often confusing and disjointed nature of the regulatory environment facing our industry in Australia is the following table providing a spotlight on how duplicative regulatory oversight can arise for some product and ingredient categories important to our industry sector:

Spotlight on: Ingredient and product introduction

Category	Scope	Examples	Regulatory regime*					
			TGA ¹	APVMA ²	FSANZ ³	AICIS ⁴	ACCC ⁵	SUSMP ⁶
Therapeutics	Products that make a therapeutic or health benefit claim	Some mouthwashes, toothpastes, sunscreens, medicated soaps, anti-dandruff shampoos, disinfectants, sanitisers	✓				✓	✓
Agvet	Agricultural & veterinary chemical products	Dairy sanitisers for on-farm use, insect repellents for personal use		✓			✓	✓
Food & beverage	Chemicals in food & beverage products	Ingredients & additives in food for human consumption, such as processing aids, colourings, vitamins and minerals			✓		✓	
Industrial chemicals	All substances that are not defined as therapeutics, agvet or food & beverage	Ingredients in cosmetics & personal care and cleaning & hygiene products; commodity & industrial-use chemicals, inks, adhesives, paints, glues, solvents, candles etc.				✓	✓	✓

Another important consideration showcased in our Infographic highlights the costs and risks of unnecessary, unique Australian-only regulatory approaches and requirements instead of global standards and alignment:

Unique Australian requirements



Australian requirements form a barrier to the availability in Australia of the latest, innovative products and ingredients. Often, unique Australian requirements—over and above the requirements of other trusted overseas authorities—are not justified.

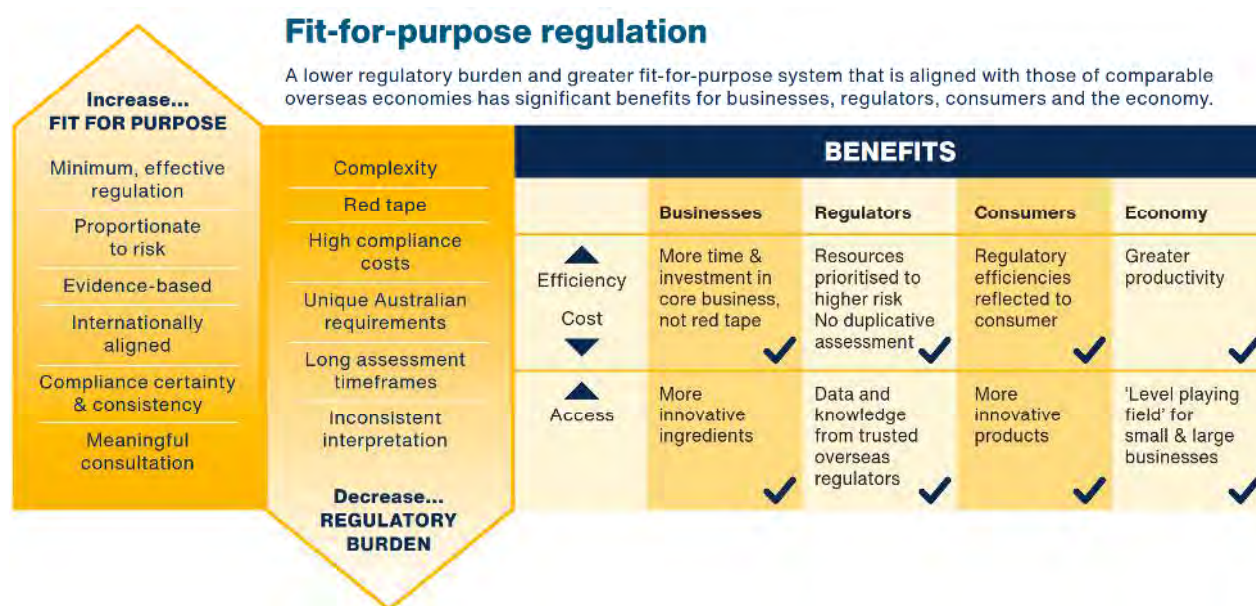
These Infographics highlight that regulation which is not fit-for-purpose creates barriers to the introduction of new ingredients and novel technologies. Given the focus of this Inquiry on the specific issues of competition, rising market concentration and firm entry, Accord would argue that these regulatory barriers also have similar impacts at the firm level^{iv}.

Existing market participants are often rewarded *de facto* by the barriers that complex regulations can throw up against new entrant firms. Such barriers may disproportionately favour large businesses that can more readily absorb the direct and indirect cost of regulations and regulatory compliance.

These costs can go beyond the direct fees and levies that Australia's 100 per cent cost-recovered regulatory agencies charge firms to operate in Australia and/or put products on the market. For example, there is often a transaction cost in gaining the necessary knowledge of the ins-and-outs of regulatory requirements for new market entrants. Complexity, duplication and unnecessary red tape and paperwork all comprise indirect costs but can still actively discourage new market entrants.

Within our industry but also others, the business of new firms may often be intrinsically related to a new product/technology for which they hold the IP protection. Should the regulatory environment in Australia appear too difficult or complex to navigate for such firms they may decide not to enter into commerce in Australia and instead seek to market their product/technology elsewhere.

On a more positive front, Accord has developed a model for how to develop better, fit-for-purpose regulation and we hope that this can be applied by policymakers for future-proofed regulation that enhances not just safety and innovation but also productivity and the entry of new firms to support competition:



Accord notes that there are moves to embed the concept of *continuous improvement* in Australian regulation, partly through adoption of the concept of *regulatory stewardship* into the Australian Public Service (see - <https://www.regulatoryreform.gov.au/priorities/regulatory-stewardship>). This is an initiative we fully support, and we applaud the Government for developing and implementing this measure.

The work of regulators, and of course public servants more generally, is important and is highly valued by our industry and Accord. We welcome ongoing engagement to ensure that Australian policy and regulatory approaches align to strengthen competition and mitigate against creating barriers that would deter the ready entry into the market of new firms as well as new innovative products and technologies.



On behalf of Accord's member businesses, the opportunity to provide this submission to the Committee on our views on this important matter is appreciated. We wish Committee members well in their deliberations during this Inquiry.

Yours sincerely,

<Unsigned for electronic transmission>

Craig Brock
Policy & Public Affairs Director

3 April 2023

Attachments: Accord Infographics: Regulation for Safety and Confidence; Regulatory Complexity and Challenges

ⁱ EY Report - <https://accord.asn.au/about/economic-state-of-the-industry-report/>

ⁱⁱ Published by the Observatory of Economic Complexity

ⁱⁱⁱ See- <https://www.pc.gov.au/inquiries/completed/chemicals-plastics/report>

^{iv} Our position in the regard is supported by numerous studies across a range of industries such as the PC's 2013 *Regulator Engagement with Small Business Report* (<https://www.pc.gov.au/inquiries/completed/small-business/report>) and also Australian Small Business and Family Enterprise Ombudsman's 2017 *Barriers to Investment* report <https://asbfeo.gov.au/sites/default/files/2021-11/ASBFEO-investment-study.pdf>.

Regulation of hygiene, personal care and specialty products

Hygiene, personal care and specialty chemical products are regulated to protect human health, safety and the environment.

Australia has a rigorous and independent regulatory system at the federal, state/territory and local government levels.



Regulation for safety & confidence

Risk assessment

Risk assessment underpins regulation in Australia.

Following risk assessment, controls are put in place to minimise any risks.

Risk assessment
Likelihood of harm

Control measures

e.g. bans; restrictions on use; workplace controls; classification and labelling; control of emissions to air, water and land; waste disposal restrictions

Regulators

Regulators assess risk, implement control measures and enforce compliance with these controls.

Regulation impacts every aspect of a chemical product and its ingredients. Multiple regulators are responsible for these aspects.



Spotlight on: Ingredient and product introduction

Category	Scope	Examples	Regulatory regime*					
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Food & beverage	Chemicals in food & beverage products	Ingredients & additives in food for human consumption, such as processing aids, colourings, vitamins and minerals			✓		✓	
Industrial chemicals	All substances that are not defined as therapeutics, agvet or food & beverage	Ingredients in cosmetics & personal care and cleaning & hygiene products; commodity & industrial-use chemicals, inks, adhesives, paints, glues, solvents, candles etc.				✓	✓	✓

Spotlight on: Personal care, cosmetic & household products



INGREDIENTS

- Must comply with AICIS introduction rules⁴
- Some are prohibited/have limits in specific products^{1,6}



PRODUCTS

- Certain products are individually assessed^{1,2}
- Products safety and recalls, if needed^{1,2,5}
- Australian/International standards apply to some categories, e.g. sunscreens, aerosol containers, child-resistant packaging⁷



INFORMATION

- Cosmetic ingredient labelling⁵
- Safety warnings, if needed⁶

Can we trust the system?

Australia, like other advanced nations, has a robust regulatory system designed to deliver safety for consumers and the environment.

Decisions about risk and safety can be safely entrusted to regulatory scientists and expert scientific bodies.

Regulatory scientists & expert scientific bodies

Scientific knowledge
Training
Independence



Informed risk assessments
Appropriate controls
Consumer confidence



Can the system be improved?

Please refer to our 'Complexity and challenges' infographic

*Regulatory/standards system:

¹ TGA: Therapeutic Goods Administration

² APVMA: Australian Pesticides and Veterinary Medicines Authority

³ FSANZ: Food Standards Australia New Zealand

⁴ AICIS: Australian Industrial Chemicals Introduction Scheme

⁵ ACCC: Australian Competition and Consumer Commission

⁶ Standard for the Uniform Scheduling of Medicines and Poisons

⁷ Standards Australia and the International Standards Organisation (via various regulatory systems)

Regulation of hygiene, personal care and specialty products

Hygiene, personal care and specialty chemical products are regulated to protect human health, safety and the environment.

Ongoing improvement is needed to ensure Australian regulation remains fit for purpose.



Regulatory complexity and challenges

Accord advocates for evidence-based, fit-for-purpose regulation.

This means regulation that offers the necessary protections without stifling innovation and investment or overly burdening the regulated industry.

Can the system be improved?

Australia's chemicals regulation system is rigorous and robust in protecting human health, safety and the environment.

However, its complexity and unique Australian requirements have significant impacts on businesses, consumers and the economy.

Complexity

~144 pieces of primary legislation ¹	10+ federal regulators/authorities	40+ state & territory regulators/authorities	Countless regulatory instruments
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'The regulation of chemicals and plastics has long been the subject of concerns about inconsistencies, complexity and fragmentation'²

This places a large compliance burden on responsible businesses in the sector, with knock-on effects.

A good regulatory system should

PROTECT



Human health, safety & environment

ENABLE



Innovation & efficiency



Consumer information & choice



Consumer trust

Unique Australian requirements



New product / ingredient

Is it worth it?



- > Small market
- > Unique requirements
- > Reassessment costs

Australian requirements form a barrier to the availability in Australia of the latest, innovative products and ingredients. Often, unique Australian requirements—over and above the requirements of other trusted overseas authorities—are not justified.

Fit-for-purpose regulation

A lower regulatory burden and greater fit-for-purpose system that is aligned with those of comparable overseas economies has significant benefits for businesses, regulators, consumers and the economy.

Increase... FIT FOR PURPOSE Minimum, effective regulation Proportionate to risk Evidence-based Internationally aligned Compliance certainty & consistency Meaningful consultation	Complexity Red tape High compliance costs Unique Australian requirements Long assessment timeframes Inconsistent interpretation Decrease... REGULATORY BURDEN	BENEFITS				
			Businesses	Regulators	Consumers	Economy
		Efficiency	More time & investment in core business, not red tape	Resources prioritised to higher risk No duplicative assessment	Regulatory efficiencies reflected to consumer	Greater productivity
		Cost	✓	✓	✓	✓
		Access	More innovative ingredients	Data and knowledge from trusted overseas regulators	More innovative products	'Level playing field' for small & large businesses
			✓	✓	✓	✓

Can we trust the system?

Please refer to our 'Regulation for safety & confidence' infographic

Technologies, systems and markets are constantly evolving. Regulatory systems must do likewise so they do not create barriers to the development and availability in Australia of innovative products and ingredients e.g. with superior performance and environmental characteristics.

Regulatory/standards system:

¹ Environment Australia 1998, National Profile of Chemicals Management Infrastructure in Australia

² Productivity Commission 2008, Chemicals and Plastics Regulation, Research Report, Melbourne