



Maurice Blackburn Pty Limited  
ABN 21 105 657 949

Level 21  
380 Latrobe Street  
Melbourne VIC 3000

DX 466 Melbourne  
T (03) 9605 2700  
F (03) 9258 9600

13 November 2018

Committee Secretary  
Senate Standing Committees on Rural and Regional Affairs and Transport  
PO Box 6100  
Parliament House  
Canberra ACT 2600

By email: [rrat.sen@aph.gov.au](mailto:rrat.sen@aph.gov.au)

Dear Sir/Madam,

Thank you for the opportunity to contribute to the inquiry into the independence of regulatory decisions made by the Australian Pesticides and Veterinary Medicines Authority (**APVMA**).

As you will know, Maurice Blackburn Pty Ltd is a plaintiff law firm with 32 permanent offices and 29 visiting offices throughout all mainland States and Territories. The firm specialises in personal injuries, medical negligence, employment and industrial law, dust diseases, superannuation (particularly total and permanent disability claims), negligent financial and other advice, and consumer and commercial class actions.

Maurice Blackburn employs over 1000 staff, including approximately 330 lawyers who provide advice and assistance to thousands of clients each year. The advice services are often provided free of charge as it is firm policy in many areas to give the first consultation for free. The firm also has a substantial social justice practice.

Every day we work with Australians who have developed diseases as a consequence of being exposed to toxic substances - including dusts, gases, chemicals and fumes - usually in respirable form.

The clients we assist have been exposed to these toxic substances in a variety of contexts, including occupationally (workers who have manufactured or worked with noxious substances) and non-occupationally (such as home owners who performed home renovations with building products which contained asbestos).

For the purposes of this inquiry, we focus our commentary around the exposure of farmers to toxic substances.

In relation to the terms of reference to the inquiry, we make no specific commentary in relation to the responsiveness and effectiveness of the APVMA, nor its funding or geographic location.

Instead, we seek to highlight what we believe to be core priorities and areas of focus that the APVMA should adopt, based on our experiences with those impacted by pesticides and related chemicals as part of their work.

To this end, we address our comments to Term of Reference (d):

*The need to ensure Australia's farmers have timely access to safe, environmentally sustainable and productivity enhancing products.*

The need to ensure Australia's farmers have timely access to safe products is evident in every farmer we represent. The impacts not only effect the individual, but also their families, friends and whole communities.

Consider the following case study:

*Case Study:*

*We act for a 62 year old former citrus farm manager who has developed a severely debilitating condition called peripheral neuropathy as a result of excessive exposure to an organophosphate called dimethoate.*

*His condition has also led to severe depression and anxiety.*

*This chemical was approved by the APVMA for 'off-label' use by citrus farmers (and others).*

*Our client never received adequate training or information in relation to the use of the chemical by his employer or the APVMA.*

*Further, our client was not required to undergo, and was never provided with information regarding, simple blood testing that any GP could have undertaken to test for excessive levels of organophosphate in his system.*

*If these simple and inexpensive tests had been undertaken, then our client would have never suffered his disease.*

*He is now prevented from working and the consequences of his conditions are chronic.*

Cases such as the above highlight that genuine care for workers extends further than merely approving a substance as safe to use.

Ongoing education and health checks for farmers would play an important role in mitigating against the risks associated with exposure to chemicals.

Recent changes to the Coal Miner's Health Scheme in Queensland<sup>1</sup> are instructive. Developed in response to an increasing occurrence of coal workers' pneumoconiosis, the

<sup>1</sup> See for example <http://www.qip.com.au/standards/coal-mine-workers-health-scheme/>

scheme is designed to provide early detection of coal mine dust lung disease among Queensland coal mine workers. This represents a shift in the very core purpose of the scheme away from mere fitness for work to early detection and prevention of disease.

The scheme now requires that miners undergo compulsory pre-employment and periodic health assessments. The checks are also made available to retired miners, on a voluntary basis.

Maurice Blackburn asks the Committee to accept the following recommendations:

### **Recommendations:**

#### **1. That APVMA should be required to prioritise farmer's health (and prevent disease) over any perceived productivity gains when approving the use of pesticides and chemicals.**

This is particularly so when considering the approval of the 'off-label' use of pesticides such as organophosphates. These are chemicals which are ordinarily banned for use by the community at large but have, nevertheless, been approved by the APVMA for certain farming activities.

#### **2. That the APVMA should mandate the provision of education and training of farmers in relation to the world's best practice in the safe use of all pesticides.**

Maurice Blackburn believes that farmers should need to obtain accreditation from the APVMA in this regard, which should be regularly renewed every 2 or 3 years.

#### **3. That the APVMA should mandate the regular and consistent health testing of all farmers who are using pesticides and chemicals, to ensure that at risk farmers are identified.**

Recommendations 2 and 3 above are in parallel to the recent changes introduced in the coal mining industry via the Coal Worker Medical scheme.

#### **4. That the APVMA should impose heavy financial penalties for those farm owners who fail to adhere to basic standards in the safe use of pesticides and chemicals.**

Maurice Blackburn also notes the current focus on preventing industrial deaths, both at the federal level<sup>2</sup> and in several state/territory jurisdictions. We have consistently advocated<sup>3</sup> that death resulting from exposure to an industrial illness that reasonably could have been prevented, should be perceived as industrial manslaughter. Holding employers accountable through heavy financial penalties or criminal sanctions would provide an additional level of deterrence.

We would be pleased to discuss any of the matters raised in this submission directly with the Committee. Please do not hesitate to contact me and my colleagues on \_\_\_\_\_ or via \_\_\_\_\_

---

<sup>2</sup> [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Education\\_and\\_Employment/IndustrialdeathsInAus](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/IndustrialdeathsInAus)

<sup>3</sup> See, for example, <https://www.aph.gov.au/DocumentStore.ashx?id=59805d5e-06fc-4cbb-86a5-502512ab2f22&subId=612112>

work. if we can further assist with the Committee's important

Yours faithfully,

Jonathan Walsh  
Principal  
**Maurice Blackburn**