

The Australian Cosmetics Industry Position on Animal Testing and the Greens' Unworkable Bill

Accord represents the makers and importers of formulated products in the following sectors:

- the cosmetics and personal care products sector,
- the household hygiene, cleaning and consumer products sector, and;
- the industrial & institutional hygiene and speciality products sector.

A list of Accord's member companies is attached. Our industry is committed to working with government and the community on workable ways of eliminating the need for animal test data. Details of our position on what would be needed for any potential *workable* prohibition on 'animal tested' cosmetics can be found at: http://www.accord.asn.au/members/resources/submissions/accord_submissions/2014_submissions/submission_to_alp_on_cosmetics

Important Facts:

- Animal testing of cosmetic products/ingredients **is not** undertaken by the industry in Australia.
- Testing of *finished products* has also **not been conducted** in advanced nations for many years.
- However, many safety regulation regimes, including that of Australia, **require animal test data** (validated to OECD test protocol requirements in Australia's case) in order to support approval of *new ingredients*.
- This situation is further complicated in Australia because:
 - **cosmetics and their ingredients are treated as industrial chemicals** by the regulator NICNAS under the *Industrial Chemicals Notification and Assessment Act 1989*;
 - **the Act and the regulations specify a requirement for animal test data** (mainly from tests using laboratory mice, rats and fish) for ingredients determined to be 'new' to Australia (see Schedule Part C of the Act, the NICNAS Notifiers Handbook and this NICNAS statement - <http://www.nicnas.gov.au/communications/issues/animal-testing-and-cosmetics/data-requirements-and-animal-testing-for-new-cosmetic-ingredients>)
 - the relatively small size of the Australian chemicals inventory (the AICS) – about 38,000 to 40,000 chemicals compared to the inventories of the EU (100,000 chemicals) and the USA (80,000 chemicals) – means that **many ingredients that would be deemed 'new' by NICNAS may actually have been in safe and widespread use in other advanced nations**
 - industry experience is that **NICNAS when assessing these 'new' ingredients will often ask companies to submit animal test data** (from tests conducted to OECD test protocols).
- **Ingredients used in cosmetics may also be used widely in other types of products**, including pesticides, human medicines, veterinary drugs and/or industrial chemical products, **and may be subject to animal testing in order to support these 'non-cosmetic' uses.**
- **Thousands of ingredients used in formulated products**, including cosmetics, **will most likely have been tested on animals at some time in the past.**
- **"Cosmetics" as defined by law in Australia equals much more than make-up and skin moisturisers.** This is very broad category of everyday products that also includes toothpaste, mouthwash, hair dyes, depilatory creams, anti-perspirants, secondary purpose sunscreens and baby care skin/bath products.

The 'Bottom Line' – the Greens' End Cruel Cosmetics Bill is poorly designed/targeted, was drafted and introduced into the Senate with zero consultation with the mainstream Australian cosmetics industry and if passed will create an unworkable mess of Australian cosmetics regulation.

- The Greens' bill fails to recognise that the Act they seek to amend (the ICNA Act) is actually the body of law which imposes requirements for animal test data on cosmetic product makers/importers who are introducing *new* cosmetic ingredients. **As a result, their bill does little more than make it illegal for cosmetic companies to comply with an existing law.** Frankly, this is a farcical policy proposition.
- Additionally, **the bill seeks *de facto* to make a cosmetic product maker/importer legally accountable for the actions of third parties, over which it they no control whatsoever**, on the basis that these third parties may at some stage conduct an animal test on an ingredient that also just happens to be used by that product maker/importer.

Cosmetic companies do not generally own the ingredients in their products. They purchase these from upstream ingredient suppliers, generally global chemical or botanical ingredient manufacturers.

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Cosmetic formulations also contain a multitude of ingredients - sometimes as many as 20 or 30. On a global basis, the number of third parties who may possibly conduct an animal test – for human health or environmental assessment – is huge and includes other companies (who may not even be in the Australian market), government laboratories, university researchers and independent researchers.

Trying to impose legal sanctions on a company for actions they did not commit (nor have any control over, nor often have any reasonable means of being readily aware of) is an abuse of the law.

Additionally, no company (or even regulator) can reasonably be expected become a walking encyclopaedia on the global animal test status of all the hundreds of ingredients they use in their products. So as well as creating an unworkable mess of Australian cosmetics regulation, **the Greens' bill simply cannot be complied with or enforced** in any practical or efficient manner.

Across the globe, the cosmetics industry moved decades ago to cease needlessly cruel animal tests. Eye and skin irritation tests, for example, have been replaced with scientifically validated, non-animal methods. This process has often meant industry has had to prod unresponsive government regulators to change their regulations to accept test alternatives.

At the end of the day, no one likes the idea of animal testing. However, the hub of the issue in Australia is that cosmetics are treated as industrial chemicals under NICNAS and the regulator's legislation requires animal test data. Our regulation is entirely out of sync with other major markets like the EU. The logical prerequisite for any local ban on animal-tested cosmetic ingredients is to firstly align Australia's regulatory framework with other major markets and stop treating cosmetic ingredients as industrial chemicals.

Accord's recent submission to Labor's public consultation outlines some key factors which need to be considered and resolved before any workable policy on animal testing and cosmetics is possible, including:

- The requirement for animal test data is imposed on industry by government regulation.
- The fact that government regulators require animal tests is at the hub of this issue and needs to be addressed first and foremost.
- A clear definition of 'animals' is needed. Should fish be included within the scope of animals? If so, what is the view of Australia's environmental risk assessment agencies and research facilities on such a move?
- **Attempting to tinker with the ICNA Act, as the Greens have done, is a dead-end option** - apart from creating an unworkable mess, this is totally out-of-step with other advanced nations and ultimately self-defeating, as it further cements cosmetics being regulated as industrial chemicals (which require animal test data anyway).
- 'New' to NICNAS (in terms of cosmetic ingredients) may actually mean 'old' and 'already assessed and approved' elsewhere – Australia's chemical ingredient inventory is 40% smaller than the EU's.
- 'Cosmetics' equals more than just 'make-up' – and includes toothpaste, mouthwash, antiperspirants, hair dyes, antibacterial soaps, secondary purpose sunscreens and baby hygiene products.
- What happens when an ingredient used in a cosmetic is also used in a medicine, agvet chemical or industrial chemical and is thereby tested on animals as a result of the prevailing legal requirements for these product types?
- Preservative ingredients, which are essential for the consumer safety of cosmetic products, but are also biologically active in that they kill harmful microorganisms, present a special case which requires more thorough consideration and possible exemption.
- Potential adverse trade impacts need to be accounted for, especially as Australia's treatment of cosmetics and their ingredients as industrial chemicals is entirely out of sync with markets like the EU, USA and New Zealand.

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Members

Consumer, Cosmetic and Personal Care

Advanced Skin Technology Pty Ltd
Amway of Australia Pty Ltd
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AVON Products Pty Limited
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Syndet Works Pty Ltd
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