

**ACCORD Statement*****Industry Consumer Information Policy Proposal:  
Suggested Australian Regulatory Approach for Labelling  
of Sunscreens & Cosmetic Products Containing Nanomaterials***

Issues relating to the possible use of nanomaterials in cosmetics and sunscreens continue to attract media and public policy interest.

But the fact remains there is very limited use of nanomaterial ingredients in the large range and volume of cosmetics and skincare products sold on the Australian market.

The most significant usage of nanomaterials occurs in the form of nano-sized metal oxide ingredients (zinc oxide and titanium dioxide). Metal oxides are used as highly effective UV-radiation filters in *some* primary and secondary sunscreens. They play a vital role in sun protection.

According to the Therapeutic Goods Administration (TGA), nano-sized metal oxides have been in use for many years - almost twenty years in the case of titanium dioxide and about ten years in the case of zinc oxide.

During the summer of 2009/10 a number of press articles were published. These reports were often driven by anti-nanotechnology campaigning by the activist group, Friends of the Earth (FoE).

While ACCORD rejects FoE's ongoing claims as ideologically-driven scaremongering and contrary to the weight of scientific evidence supporting safety to the public, **industry businesses noted the calls for product labelling that accompanied these articles**, including a Sydney Morning Herald editorial dated 25 November 2009.

On the all important issue of safety, industry is also actively cooperating in the safety assessment processes being undertaken by the key ingredient safety regulators, NICNAS (the National Industrial Chemical Notification & Assessment Scheme) and the TGA. Industry strongly supports the independent scientific assessment role of these government agencies. Our industry is confident in the safety of cosmetic and sunscreen products, including the limited number that use nanomaterials.

Through ACCORD, industry members began considering possible approaches to nano-labelling taking into account the passage in December 2009 of the new European Union (EU) Cosmetic Directive\*.

An ACCORD member company consensus was obtained for the following proposal, which mirrors the content and timing of the nano-labelling approach to be introduced in the EU:

- Industry proposes that the Australian Competition & Consumer Commission (ACCC is the cosmetic ingredient labelling regulator under the *Trade Practices Act*) and TGA commence separate, but complementary, processes to amend their respective regulations.
- It is proposed that ACCC amend the '*Cosmetic & toiletry - ingredient labelling, product information, a mandatory guide*' standard under *Trade Practices (Consumer Product*

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\* Sunscreens are regulated as cosmetics in the EU (and also most other developed nations, including New Zealand, Canada and the USA). In Australia primary purpose sunscreens (those with SPF15 or greater) are regulated by the TGA, while secondary purpose sunscreens (mainly moisturisers with SPF less than 15) are covered by NICNAS ingredient requirements. Ingredient disclosure for all cosmetic products (including secondary purpose sunscreens) is regulated by the ACCC.

*Information Standards) (Cosmetics) Regulation 1991 to introduce an EU-style labelling of nanomaterials - i.e. "All ingredients present in the form of nanomaterials shall be clearly indicated in the list of ingredients. The names of such ingredients shall be followed by the word 'nano' in brackets."*

- Likewise, TGA amend its *Therapeutic Goods Labelling Order No. 69* - which focuses on 'active' ingredients, like zinc oxide and titanium dioxide.
- And that both regulators aim to have the new requirements come into force on (or no earlier) than 11 July 2013, which is the *entry into force* date specified in the new EU cosmetic (inc. sunscreens) labelling laws.

A detailed paper in support of this proposal was prepared and finalised by ACCORD in June 2010. This paper is attached.

The approach proposed by industry, via ACCORD, represents a reasoned and sensible policy proposal that has a number of key benefits. It will:

- provide Australian consumers with the information they need to make informed choices
- provide certainty and transparency within the Australian sunscreen and cosmetic market, with a requirement that all businesses comply with the new labelling rules once introduced
- fit efficiently and cost-effectively with the existing Australian regulatory approaches for ingredient labelling of either cosmetics or sunscreens
- achieve harmonisation of product label ingredient disclosure with the EU and, down the track, other major markets that are known to have rules based heavily on those of the EU, such as the neighbouring ASEAN zone (via the ASEAN Cosmetics Directive) and New Zealand

ACCORD's proposal was tabled with the Australian Government at a meeting held with Health Minister Roxon and Health Parliamentary Secretary Butler on 16 June. The proposal was subsequently sent to Consumer Affairs Minister Emerson and Industry Minister Carr on 14 July, just days prior to the calling of the federal election.

Given the current level of political uncertainty, ongoing delays in the formation of a government and a likely focus on the policy agendas of independent MPs over other matters, industry is concerned that this proposal could remain in limbo for a considerable time.

Initiating regulatory change is, for good policy and economic reasons, a complex and time-consuming exercise, more often than not taking several years for effective implementation. Given this, ACCORD is of the view that the Australian Government should commence a project to develop this policy proposal.

For this reason, and to ensure all political parties, independent MPs and consumer stakeholders are aware of our industry's positive and pro-active nanomaterial ingredient labelling proposal, ACCORD has released all details. We have also directly provided these details to the relevant government agencies.

Our industry is confident in the safety and effectiveness of the many beneficial products we supply to the Australian public.

We recognise many consumers are increasingly asking for more information about the products they use. As an industry, we not only accept this, but are prepared to act on it. This pro-active nano-labelling policy proposal is an example. Another is ACCORD's *'What's in it?'* household cleaning product ingredient disclosure program, which was launched in April 2010 and comes into force by mid 2011 - see [http://www.accord.asn.au/whats\\_in\\_it](http://www.accord.asn.au/whats_in_it).

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6 September 2010