

Label Review Team
Deloitte Touche Tomatsu
via email: labelreview@deloitte.com.au

31 May 2016

Dear Sir / Madam,

Re: Review of duplication between agricultural and veterinary chemical and work health and safety legislation

Cotton Australia welcomes the opportunity to provide comment and, as the key representative body, speak on behalf of growers regarding the *Review of duplication between agricultural and veterinary chemical and work health and safety legislation*.

The cotton industry is an integral part of the Australian economy, worth over \$1.25 billion in export earnings in the 2014–15 season, and employing on average 10,000 people. The industry's vision is: *Australian cotton, carefully grown, naturally world's best*.

Agricultural chemical labels are currently regulated by the Australian Pesticides and Veterinary Medicines Authority (APVMA) under the *Agricultural and Veterinary Chemicals Code Act 1994* (AVCC Act). This framework delivers adequate protection to users of agricultural chemicals through provision of safety warnings and risk mitigation strategies that are scientifically based, risk-proportionate and technically proficient. Safety Data Sheets (SDS) to support agricultural chemical labels are a recognised source of comprehensive risk analysis based information.

We have addressed our response to each of the options raised by Deloitte and have answered issues presented within the supplementary questions within these detailed submissions. In summary, our recommendations are as follows:

- Cotton Australia supports a science based and risk proportionate approach to regulation of agricultural chemicals in Australia
- We believe option three which reinstates the full exemption for agvet chemical labelling will deliver the best health and safety outcomes for workers
- We do not support duplication of the broader national standards and codes of practice, and State based legislation and regulation which may result from implementation of options one and two
- We do not support regulation that generates additional costs for growers that would occur through the implementation of option one and two
- We would like to highlight that the proposed changes do not remove the obligation for a person who conducts a business or undertaking from ensuring they conduct an adequate risk assessment of the chemicals used in their workplace.

Option 1 – Additional WHS / GHS labelling added to existing agvet WHS labelling

Cotton Australia strongly supports regulation that delivers an outcome of decreased health risks to workers through exposure to agvet chemicals. However, based on the examples of broad hazard and precautionary, we believe that improved health outcomes will not be achieved through the addition of WHS / GHS labelling requirements.

Cotton Australia believes that there are fundamental misunderstandings that have occurred between Government agencies involved in the review process, namely the APVMA, SafeWork Australia and the Department of Agriculture and Water Resources. Primarily, this revolves around the hazard based approach which underlies the *Model WHS Regulations 2011* (WHS Regulations) and the risk based approach adopted by the APVMA through the AVCC Act. We believe the inherent issue lies with the 'end-result' label that is produced via the APVMA system.

The APVMA label is the result of a process that that has already considered a hierarchy of risks and thereby provides information to the user of the chemical at the conclusion of consideration of the risk matrix. Given the technical expertise within the APVMA, we believe that they are the best placed authority to determine what the residual risk of a chemical will be, and that a label should provide clear and detailed safety and first aid information. We believe that the introduction of high level, overarching hazard and precautionary statements – which could be extensive according to the current wording of the regulation – will add no additional value to improved health and safety outcomes for agricultural industries including those workers involved in the storage and transport of chemicals.

Cotton Australia wishes to highlight the following points to support this position:

- Under the AVCC Act the satisfaction of the APVMA is required that a chemical product (including its residues, metabolites and degradation products) will not present an undue hazard to people exposed to it during handling, including transport, storage, processing, disposal or use (including consideration of 'downstream effects')
- The use of agricultural chemicals sits within a much broader regulatory framework including National Standards and various pieces of State . These broader frameworks appropriately and adequately take in to account risks that SafeWork Australia has indicated as an issue of concern – including consideration of risk outside work places where the chemical may be used, handled or stored outside those deemed not to be foreseeable under the APVMA risk assessment. These Standards, Regulation and Legislation include:
 - AS-1940-2004 National Standard for the storage and handling of flammable and combustible liquids
 - Australian Dangerous Goods Code
 - NSW *Dangerous Goods (Road and Rail Transport) Act 2008* and *Dangerous Goods (Road and Rail Transport) Regulation 2014*

- Queensland *Transport Operations (Road Use Management - Dangerous Goods) Regulation 2008*¹
- As noted in the review material provided by Deloitte, the APVMA's pre-supply risk assessment of an agvet product does not absolve a person who conducts a business or undertaking from ensuring it conducts an adequate risk assessment of the chemicals used in their workplace.

It should be noted that within each of the aforementioned pieces of legislation there is a requirement for the workplace to consider the current SDS which will contain a full list of hazards. This allows the workplace to consider the full range of potential hazards, conduct a risk assessment and eliminate risks *so far as reasonably practicable* in line with the WHS Regulations. It should be noted that a failure to comply with these codes / legislation or standards may result in an organisation being in breach of their WHS obligations. As a result of these broader implications, and due to the volume of information currently available on existing APVMA labels, Cotton Australia believes that the incorporation of WHS / GHS labelling would result in no additional material health and safety benefit for workers.

While Cotton Australia is not in a position to comment on the full extent of the costs that may result from these labelling requirements, we note that the National Farmers Federation has indicated costs of approximately \$20 million. We note that estimates produced from other peak industry and member agriculture industry bodies are considerably higher. Cotton Australia recognises that any increase in costs on chemical manufacturers and suppliers through changes to regulatory compliance will ultimately result in increased costs for our cotton growers. While we support such measures where there is a determined beneficial outcome – we cannot see such a justification or improved health and safety outcome. Cotton Australia is therefore highly unsupportive of duplicative labelling that will ultimately flow back to higher input costs and therefore higher costs of production for our members.

Option 2 – Remove the APVMA WHS labelling requirements for hazardous workplace chemicals
Cotton Australia recognises that implementation of option two would require changes to legislation to remove WHS responsibilities from the APVMA mandate. It will also result in duplication of WHS hazard assessments, as the APVMA will continue to conduct associated risk assessments for areas such as environment and animal health risk that will overlap with WHS requirements.

The APVMA is recognised for its scientifically-based, independent, risk based analysis which is conducted on agricultural chemicals to produce labels, safety and usage data for the benefit of those involved in use, storage and handling. The loss of high technical capacity that could occur through the removal of WHS requirements from the APVMA mandate, and the duplication of risk

¹ Please note that due to Australian cotton production primarily occurring in NSW and Queensland we have only included examples of NSW and Queensland based legislation and regulation.

assessment procedures that would occur if such a position is adopted is not recommended and indeed not supported by Cotton Australia.

Cotton Australia notes that SafeWork Australia provided an example of a WHS / GHS compliant chemical label for the purpose of the Deloitte consultation paper. We wish to highlight the following concerns:

- Hazard Statement – Suspected of causing cancer
 - While this provides an overall warning it provides no overall action / response that an individual can undertake to assess or reduce this risk. We believe that such broad ranging hazard statements are more appropriately placed within the SDS. Within the SDS greater information can be provided to the individual undertaking a more ‘broad ranging’ risk assessment, allowing them to eliminate the risk so far as is reasonably practicable.
 - We believe that where a safety incident occurs, in relation to an agvet chemical, the current first aid information will be the ‘go to’ information that will be required by the affected individual.
- Precautionary statements – Do not handle until all safety precautions have been read and understood. If exposed or concerned: get medical advice / attention. Store locked up
 - Cotton Australia believes that these statements are duplicative and are currently addressed either by existing APVMA labelling requirements or associated storage and handling labelling requirements.

Cotton Australia supports the presentation of hazard information in the context of a complete risk assessment including risk mitigation strategies. To have these hazard statements without contextual information could be misleading or potentially confusing for workers involved in chemical use, handling or storage. We are fully supportive of the ongoing involvement of the APVMA in WHS labelling requirements whereby information presented is science based and includes risk mitigation strategies.

Option 3 – Full exemption for agvet chemical labelling from WHS workplace chemical labelling requirements

Cotton Australia believes that option three represents the only logical path of action to ensure the best health and safety outcomes for workers. It will result in the delivery of science based, risk proportionate and cost efficient regulation.

We believe that it would be a relatively simple process to accredit current APVMA WHS risk assessment procedures as being GHS compliant. Cotton Australia believes that the process for accreditation of country compliant agricultural chemical regulatory risk assessment has been set and established through precedents adopted by the United States of America, Canada and Japan.

We recognise that this might represent an unpopular path of action given the range of views presented by stakeholders within the Deloitte paper – *‘the agvet chemical regulatory framework is risk-based and focused on chemical use; it does not adequately consider other people’* and *‘the agvet chemical industry has had five years notice about the WHS labelling requirements’*. However, we believe such statements have been made without consideration of the broader national standards and State based regulatory and legislative frameworks. Cotton Australia does not believe that timeframes should dictate the introduction of regulatory requirements that will fundamentally fail to deliver the best health and safety outcomes for workers.

We believe that if concerns remain regarding the availability, visibility and accessibility of information presented within the SDS an alternative, technology based solution could be sought, such as moving information currently available on SDS labels to an app based system.

Option 4 – Aligning the FAISD handbook with GHS and WHS requirements

Cotton Australia is not fully across the First Aid Instruction and Safety Direction handbook and would require guidance from the agencies involved. However, based on a rudimentary understanding we fail to see any reason not to support such an option.

Cotton Australia believes that the current system of labelling of agricultural chemical products in Australia provides information that is:

- Science based and risk proportionate
- Provides the best safety and health outcomes for workers
- Does not duplicate the broader national standards and codes of practice, and State based legislation and regulation
- Does not remove any obligation for a person who conducts a business or undertaking from ensuring they conduct an adequate risk assessment of the chemicals used in their workplace.

Cotton Australia looks forward to working with Deloitte, SafeWork Australia and the Department of Agriculture and Water Resources to ensure a science-based and risk aligned regulatory system for agricultural chemicals in Australia.

Cotton Australia would welcome an opportunity to provide further information on its position. For more information, contact Nicola Cottee on (02) 9669 5222 or nicolac@cotton.org.au.

Sincerely,



Nicola Cottee – Policy Officer, Research Direction & Stewardship