

## Questions

### 1. What services do tier 1 registrants require from NICNAS?

Currently we receive periodical updates to current issues at NICNAS. I believe the continuation of open lines of communication is important. So I would like to see a continuation of this and, if anything, more regular updates would be welcome. If not much is happening at NICNAS per se, letting us know what is happening globally and which may eventually impact us in Australia would be useful as well.

At this time, beyond periodical updates about NICNAS happenings, there appears to be little “bang for our buck”, in return for our annual registration fee. There doesn't appear to be any industry specific information (*ie in my instance, the cosmetic industry*) being forwarded which would ensure that we manufacture our products using best practice methods with the on flow being better and safer products for our customers. With no quality control or conformance requirements there isn't any incentive for manufacturers to produce quality products, which is a concern for consumers.

I can say to my customers I am registered with the Department of Health and Ageing, NICNAS, and it may imply to them that my products are safer than someone who is not registered. But the reality is that they are only safer because I am a concerned manufacturer who does thorough research and development and understands the rules and regulations. Canada, for example, requires formulations to be registered with their Department of Health.

Additionally, what would also be useful would be industry specific information such as risks (if any) to workers, members of the public and the environment of the chemicals generally used by that particular industry; information regarding storage of chemicals as well as safe disposal of same.

On forwarding of information relevant to our industry from third party agencies would also be useful. This could include information such as environmental hazards and impacts and so forth.

### 2. Are there other fee structures which would provide a more equitable distribution of the funding burden?

I believe the current fee structure is not equitable to those who are micro business or hobbyist in size. Paying up to 38% (or more) of the introduction value of the chemicals we manufacture in registration fees is a huge imposition and is negatively impacting on the handmade cosmetic/soapmaking (cottage) industry.

I believe that the NICNAS regulations should adhere to similar criteria as the Australian Tax Office with regards to hobbyists, where there is a purpose of earning profit as well as a prospect of earning profit. In the interests of making the NICNAS regulations simple, for example, a person is not deemed to be a commercial operation if their total earnings from that business are less than \$6000 per annum. Where earnings are over this amount they would fall under the NICNAS umbrella.

That said, however, in its current format the NICNAS registration structure is still not equitable for those at the micro business level (who I would classify as earning over \$6000 but less than \$20000. These are my own figures as most government agencies, including the ATO, in Australia simply define micro business as having fewer than 5 employees rather than having gross earnings less than a certain amount. The ABS provides information that it considers a business small if it earns between \$10000 and \$5m. Within the constraints of the financial impediment being felt within the handmade soap (cottage) industry I felt it better represents our reality by putting forth the figures I have. Those earning above this amount feel the financial impost less.)

A sliding scale of registration fee would be more equitable as it would mean a considerably smaller registration fee at the micro end of the scale. The percentage of introduction value for the majority of value amounts as indicated on page 10 of the CRIS discussion paper is less than 1%. However, the smaller the introduction value the higher the percentage (38% for \$1000 of introduced value, 3.8% for \$10000). A sliding scale at a set percentage of introduction value would be more equitable and would not cause such a financial imposition as the current fee structure does now to those who are micro. It also appears that the lowest value in each tier bears the bigger burden percentage wise to their introduction value of chemicals. A sliding scale at a set percentage would also be more equitable at that level.

Given the range of introduction values, it may be best to have the sliding scale in tiers as well. For example: 0.50% for tier one, 0.20% for tier two and .05% for tier three.

I strongly urge NICNAS to consider a higher minimum threshold for those whose business can be considered to be non-commercial and hobbyist in nature. I believe a minimum threshold of \$6000 would be a fairer starting point.

3. **If a higher minimum threshold value for tier 1 registration is introduced, how does NICNAS ensure the introducers who fall below this threshold are aware of their obligations under the IC(NA) Act?**

There are many manufacturers who are very small scale who now are neither aware of their obligations under the IC(NA) Act nor aware that NICNAS requires them to be registered. I am speaking from my experience which is limited to the handmade soap (cottage) industry. I have been running an online forum for handmade soapmakers in Australia for several years now and I routinely talk to suppliers and other soapmakers and it is my (anecdotal) experience that a very significant portion had no awareness of NICNAS or their obligations under the IC(NA) Act.

Also it is my understanding that NICNAS relies on reporting on importations from Customs as a method of identifying chemical introducers. However, imports with values less than \$1000 are not reported. So those who import smaller quantities, say of fragrant oils or other cosmetic ingredients, are also falling under the radar and are not captured by NICNAS for follow up or registration compliance. This fact is also known by some within our cottage industry and it has the potential to be a method that is deliberately used to avoid detection by some.

So this problem already exists for NICNAS, in how to raise awareness in cottage industries such as the handmade soapmaking one.

My suggestion would be to get in touch with the suppliers of these cottage industries and seek to have a relationship with them whereby they can disseminate information to their customers about the rules and regulations as required in Australia.

I personally have tried to provide that information to handmade soapmakers via my own personal website, I have also lodged this information on a supplier website, and I also run an online forum with over 200 members many of whom are Australian handmade soapmakers.

Many cottage industries have such communities and reaching out via the main suppliers and forums would bring this information to a good proportion of those who need to see it.

4. **Is the application of a late penalty fee a deterrent to late payment of fees?**

Yes.

5. **What other mechanisms could be used to encourage registration payments to be made on time?**

A bonus for early payment would also encourage the earlier payment of fees. For example the NSW government gives a small fee off if paying business registration fees early. It is an incentive to pay early.

Additionally if you were able to pay multiple years and receive an additional discount to do so (ie the more years paid for the greater the discount), would also be an encouragement.

6. **Would the introduction of an optional multi-year registration cycle be beneficial to industry and why? If so what would be the optimal period per cycle, e.g. 2 years, 3 years?**

The ability to choose to pay for a single year or multiple years at once is always beneficial, particularly if there is an incentive to do so (ie a greater discount for the more years paid for). However, the option to still pay for a single year needs to exist, particularly for those who are micro businesses or hobbyists as even the single year fee is quite substantial in relation to business earnings.

A choice of 1 year, 3 years and 5 years would be optimum.

7. **Would the alignment of the NICNAS registration cycle with the financial year be beneficial? Please supply supporting information.**

No, I do not believe the alignment of the NICNAS registration cycle with the financial year would be beneficial. A lot of business expenses occur at that time as well as it being a very busy time for businesses (ie stock takes, taxes and so forth). It is possible that the fee could be "lost" in the paperwork if it were to be included at that time as well. Having a small break between end of financial year and when the NICNAS registration fee is due is helpful to many micro businesses and hobbyists.

I would also like to add that a pro rata fee for those who are registering for the first time would also be very user friendly. If a person decides to start their business up in the

early part of the calendar year, to have to pay for a full year's registration fee is an imposition and I believe NICNAS should take this into consideration as well.

8. What issues would need to be considered in relation to the appropriateness and extent of cross subsidisation of new chemical assessments, and what approaches could be taken to manage these?

I am not personally adverse to cross subsidisation of the new chemical assessment process. My understanding from the stakeholder seminar is that the cost for new chemical assessment is already significant. To make the unit entirely self funding would add additional financial burden to those wishing to bring new chemicals into Australia. If Big Industry is already starting to be hesitant to bring new chemicals in to Australia then making the new chemical assessment unit fully self funded would only hinder this and put Australia behind globally. Clearly having the unit fully self funded would be detrimental to industry growth and advancement in Australia.

Many government departments run a level of cross subsidisation between units. It is, oftentimes, the only way that regulatory requirements can be met at the levels needed with the funding support of other units who have a greater ability to bring in income to the department overall.

There is a very fine line, however, with cross subsidisation in that the people funding the cross subsidisation should not be adversely penalised for doing so; (ie the registration tiers should not be inflated excessively to cover the cost of other units).

9. Should the funding mechanism for screening submissions be changed? What are the advantages and disadvantages of a non-refundable screening fee for new chemical assessments as an incentive to achieving better quality submissions?

Unfortunately this is not applicable to my business personally and I am not au fait with the topic to make a relevant comment here.

10. What are the advantages and disadvantages of industry receiving a rebate of up to 15% of the new chemicals application fee when submissions are made using an agreed electronic template?

I believe any rebate for using agreed technologies to lodge submissions is advantageous as long as the agreed methodology is also the more efficient methodology.

11. What are the advantages and disadvantages of changing the mechanism for recovering the cost of the preliminary review of changed circumstances (of an assessed new chemical) and making a decision on whether a secondary notification is warranted? Should this be a fee for service?

Unfortunately this is not applicable to my business personally and I am not au fait with the topic to make a relevant comment here.

12. What factors should be considered in determining the level of reform activity NICNAS undertakes?

NICNAS should be taking into consideration whether the reform benefits industry **and** consumers in Australia, and if the reform advances our standing in the global community. By being beneficial I mean if the reform encourages advancements in industry whilst being safe and worthwhile for consumers and the environment.

NICNAS should also look to comparable countries to see the level of reform and activity that they are at and how that is advancing that country globally and internally (ie Canada).

13. What are the implications of NICNAS charging a special levy or a fee to a particular industry sector where the reform activities are specific to that sector only? E.g., cosmetics and disinfectants.

If a reform activity is specific to a particular sector only and does not have flow on benefits to other sectors, than it would be fair to industry as a whole to cost those reform fees to that industry section only. But it would need to be clear that the reform did only benefit that sector only.

I would suggest that before the reform took place and cost recovery was introduced, that stakeholder meetings be held to discuss the veracity of the statement that it impacts that sector only before determining any cost recovery and whether it be sector only or across the board.

14. How could this levy be structured alongside a multi-year funding cycle?

If the reform is projected to take, for example six years, than an option to pay a portion of the full fee yearly should be available. This is particularly important for micro businesses and hobbyists as the full payment will be an impost if required in one lump sum particularly as it is an additional cost to the registration levy.

15. What is the best manner in which the cost of regulatory impact assessments can be recovered? Should these costs be incorporated into the fee when it relates to a fee for service activity? Should the cost of regulatory impact analyses be included as an overhead cost and therefore funded from the registration levy?

Where these costs relate to a fee for service activity, they should be incorporated with that fee. Where these costs relate to the overhead cost for the department they should be funded from the registration levy.

16. What is an adequate level of reserves for NICNAS to enable the organisation to continue its business?

At a very minimum NICNAS should have a full year of 100% reserves available to ensure that the organisation can continue to run as it accrues its next series of registration fees, etc. However, there should also be additional reserves on hand for ongoing projects such as new chemical assessment as well as any regulatory reform that is underway. Such reform projects or projects in general should have their funding separated from the general NICNAS revenue pool so that they are not absorbed into provisioning general organisational costs.

17. What strategies could be used to improve the predictability of NICNAS annual income?

I think that communication is key to improving the predictability of NICNAS annual income. NICNAS need to continue to get its message out to the community to ensure that all parties who do fall under the NICNAS banner are registered.

NICNAS should also be continuing talks with relevant industry bodies to ensure that it is meeting the industry needs in relation to bringing in new chemicals into Australia. If NICNAS is not meeting industry expectations than knowing this sooner than later allows the department to review its processes and to see how it can improve and, therefore, encourage industry to bring in new chemicals for assessment. At this time it does appear that a competitive approach is the one being aimed for by the department. NICNAS should be aligning itself competitively with comparable countries in order to encourage industry investment into Australia.

18. What factors should be considered when determining the appropriate level of investment in training and new assessment technologies?

The primary factor to consider when determining investment levels in training and in new assessment technology is the return on that investment.

Does the training or new assessment technology advance the department's efficiency and effectiveness? Are they able to speed up their assessment process whilst maintaining quality and doing so in a cost effective manner?

My concern would be investment in training methodology or technology that ends up being laborious and costly.

So, do the training and new assessment technologies meet industry standards? Are they competitive with comparable countries? Does it advance and improve the quality and speed of assessment by NICNAS?

With regards to new assessment technologies NICNAS does need to be on board with new technologies, however, this should be offset with whether or not efficiencies are gained by bringing them on board. Do the new assessment technologies can actually improve the assessment process? NICNAS should review other countries and how they are using the new assessment technologies and to see if these technologies have actually brought about efficiencies and improvements. Money is not well spent if the process still remains cumbersome and unwieldy.

19. What factors should influence the amount of compliance effort spent on a particular activity?

Factors that should influence the amount of compliance effort spent on any particular activity are:

- The risk to consumers of non compliance.
- The risk to the environment of non compliance.
- Consumer confidence in industry.

The greater the risk of non compliance to consumers and the environment; the greater the need for compliance effort by NICNAS.

Compliance effort should be both educational and enforcement. NICNAS needs to identify and prioritise those areas where the greatest risk exists and then undertake an educational campaign (or compliance assistance program) raising awareness in industry of the regulatory requirements for their sector. They then need to identify those not complying and reinforce the regulatory requirements. If compliance is still an issue, enforcement should follow.

NICNAS should not be a solely reactive department, waiting for accidents to occur with consumers or in the environment or waiting for others to lodge complaints, before they act. There needs to be a level of proactive behaviour from the department as well. It is in NICNAS and industry's best interests to do so.

This is also in the best interest of ordinary Australians who can be assured that they and the environment are being protected. This encourages consumer confidence and also encourages confidence by other countries that Australian products are quality.

It should be added that with NICNAS being a fully cost recovered department, that the more companies are compliant (and registered with NICNAS), than the more that NICNAS can do to improve industry and consumer awareness and protection for consumers and the environment as it will have the funding to do so from registration levy fees.

20. What factors should be considered when determining the level and type of outreach activities undertaken?

Factors to be considered when determining the level and type of outreach activities to be undertaken by NICNAS should be:

- That the activities are consistent with the department's mission, have a clear and measurable outcome and a high probability of success.
- That the project is reasonable use of staff resources and the proposed budget is realistic as well as an effective use of funds.
- That the projects are designed to respond to needs identified in the community or within an industry.

- That the level of benefit is not minimal, but is maximised.
- Those high and visible risk areas are targeted.
- Those areas in industry where the need is greatest are identified, for example, cottage industries such as the handmade soap and cosmetics industry.

21. Are there any specific items you would like to see included in a document outlining NICNAS's cost recovery policy and procedures?

- Identification of how the new chemical assessment unit is being cross subsidised (ie be it training, overheads etc).
- How the department will determine the methodology of cost recovery (ie equally shared, in a tier or by value of chemical introduced).
- How and when individuals or businesses can make submissions with regards to the process.

22. Is there a reason to expand the definition of a chargeable person to include downstream users of industrial chemicals? What factors should be considered in coming to this view?

I do not believe there is any reason to expand the definition of a chargeable person to include downstream users of industrial chemicals. I believe this is a case of "double dipping", to charge the introducer or manufacturer of the chemical and then to charge downstream users as well.

Any factors in coming to such a conclusion need to be fully declared to industry stakeholders, as well as how NICNAS intends to manage such an arrangement.

23. What factors should influence the indexation model for adjusting fees and charges?

The factors that should influence the indexation model for adjustment of fees and charges should only be annual average wage and cost movements. Changes beyond this must involve consultation with affected stakeholders result in the preparation of cost recovery impact statements.

24. What are the implications of introducing an automatic annual adjustment?

The implication of an automatic annual adjustment is problematic if this method is being used to balance a fully cost recovered system where obligations exceed fiscal balance, as it has the potential to increase annual fees above the annual average wage and cost movements.

I would need more information on how an automatic annual adjustment method is proposed to be used before I can fully answer this question, particularly if my concerns in the first paragraph are correct. If this were the case, I would not support an automatic annual adjustment. I believe any adjustment beyond that of the annual average wage and cost movement should involve consultation with affected stakeholders.

25. What do you believe is the most equitable manner in which to cost recover these activities? Should it be through a fee for service or a levy?

The activities would need to be fully identified before that answer can be addressed.

Some outreach activities should, I believe, be considered a normal part of NICNAS business and be funded from the existing annual registration fee that is being paid (not an increase to the fee, nor an additional levy or fee for service). A registration fee should not just be to get a business name on to NICNAS books. There should be a returning benefit to industry and this benefit would be the outreach projects.

Some outreach activities could be considered under a fee for service arrangement which would be opting in for those wishing to use the service.

26. Are there any other issues with the NICNAS fees and charges you would like to see addressed in the CRIS?

Please reference my answers to questions 2 and 3.

I, and many individuals, hobbyists and micro businesses in the handmade soap (cottage) industry are firmly of the opinion that the minimum dollar threshold for tier 1 should be raised in order to exclude those whose activities cannot be considered commercial due to the very small size of them.

Raising the minimum threshold to \$6000 would ease the financial burden that the NICNAS registration fee has imposed to those whose businesses are at best hobbyist in nature. There are many soapmakers on the register who are essentially making zero profit at all after having to pay things like the NICNAS registration fee and insurance. And who are then unable to claim back any of these costs from the Australian Taxation Office as the ATO declares the person to be a hobbyist. It is a significant burden at this level of activity.

For those who are a little bigger but still very micro in nature the annual registration fee is still a significant impost as it is a substantial cost against the value of the chemical being introduced. Moving to a sliding scale % fee as outlined in my earlier answer would make this more equitable for these businesses as it balances the scales between the very small and the significantly larger businesses and corporations.

For hobbyists and micro business the NICNAS fees and the clash with the Australian Taxation Office regulations which means many of us cannot claim back these fees; means that the "little guy" is being stifled and prevented due to significant financial burden from giving it a go and trying to start a micro business. Many other micro businesses in other industries do not suffer the same impost due to not being involved in chemical introduction. The current fee structure and additional cost recovery activity is cutting us off at the knees, to use a colloquialism.

We, as a cottage industry, do not wish to not meet our obligations. We just need them to be more reasonable at our level of concern. It seems unreasonable and unjust to hinder the development of very small/micro businesses by imposing such disproportionately large fees.

These fees are also negatively impacting on suppliers to the handmade soap and cosmetic industry. I have had conversations with a number of the suppliers now who have indicated that since the cottage industry became aware that we fell underneath the NICNAS umbrella, that their sales are declined as many soapmakers are ceasing to trade as they cannot afford to pay the fee.

It should be noted too that many soapmakers are being discouraged from trying to turn their passion for soapmaking into a business at all because they have concerns about their ability to earn sufficient to pay such fees.

Now that NICNAS is also seeking to recover costs for the accelerated assessment of existing chemicals, quite a few soapmakers are considering whether or not it is fiscally feasible to remain in business at all.

Speaking for myself, I know that it would put me out of business if the accelerated assessment of existing chemicals was funded with a flat fee across industry. I could not afford to pay \$3600 and remain in business.

It should also be said that whilst chemicals can be industry specific, not all chemicals are specific to my particular industry (cosmetics). Is this reasonable to be utilising cost recovery methodology for the accelerated assessment of existing chemicals or should this be address at a national level with Government subsidy?

I would also like to say that since attending the Sydney stakeholder seminar I have spoken to a lot of handmade soapmakers who are very daunted by the entire CRIS process. Many of them simply do not feel comfortable with the submission process and are unsure if anything they submit would be taken into consideration. I, personally, am concerned that Big Industry by sheer numbers and commercial ability will override any of the issues that we, Very Tiny Industry, have with regards to this entire process. How can we ensure that we will be heard? Big Industry is concerned at the cost this process will have to them. We in Very Tiny Industry are worried we will just be crushed beneath the bureaucracy of it all and that the handmade soap and cosmetic (cottage) industry will cease to exist or will only exist in a black market capacity.

27. What are your views on the benefits of addressing the regulatory gap through prioritisation and undertaking this project within a reasonable period of time? Can you see any additional benefits other than those identified?

I believe it is important that the regulatory gap is addressed. I can see the value of assessing the existing chemicals. At the moment there is very little usage information available on the AICS register. It means that we do not have an official source of usage information and need to rely on more anecdotal sources or sources from other countries. Assessing these chemicals and doing so in a reasonable time frame will allow Australia to be more competitive with comparable countries. It is, I believe, something that should be done if we are to be taken seriously in a global community.

I would like to comment that I am also firmly of the opinion that we need not re-invent the wheel for this process and NICNAS should be incorporating as much data as possible from comparable countries before the prioritisation takes place. With Canada declaring up to 40% (if I recall correctly) of chemicals on their list as being no longer utilised, is it also possible that this information can also be used in the prioritisation process here in Australia?

28. What is the most equitable manner to raise funds to support prioritisation of chemicals on the inventory?

I believe the most equitable manner, particularly from a micro business perspective, is to cost recover by value of chemical usage. A flat fee or even a tier structure similar to the registration fee tiers, would still be an imposition for the micro businesses and hobbyists who fall under NICNAS. Anything other than value of chemical usage has the potential to put many of us out of business given the scope and cost of the project.