



Australian Government

Department of the Prime Minister and Cabinet

Office of Best Practice Regulation

Reference: 15249

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Ms Katherine Jones
Deputy Secretary
Attorney-General's Department

Dear Ms Jones

Regulation Impact Statement – final assessment second pass

Thank you for forwarding a Regulation Impact Statement (RIS) examining the problems associated with new psychoactive substances for final assessment. I note that you have formally certified the RIS as required by the best practice regulation requirements.

The Office of Best Practice Regulation's (OBPR) final assessment is that the Attorney General's Department (AGD) is compliant with the Government's requirements. This assessment is based on:

- the RIS not containing obvious errors;
- the regulatory costs having been agreed with the OBPR;
- AGD having twice submitted the certified RIS for the OBPR's assessment prior to a final decision being taken; and
- your letter of 30 June 2014 certifying the RIS directly responds to the OBPR's formal comments on the RIS on 16 April 2014.

However, as discussed between our agencies, the OBPR considers that consultation was not consistent with best practice in that the RIS was not consulted on for at least 30 days. While I appreciate that the consultation did elicit comments from key stakeholders a longer consultation may have given your stakeholders more time to gain an understanding of the issues so they could have offered a more considered view.

I note that the problem you are trying to solve is the reports of deaths and serious injuries from new psychoactive substances that may mimic the effect of illicit drugs. That the policy options you have considered are:

- maintaining the status quo of progressively banning dangerous psychoactive substances;
- banning the importation of new psychoactive substances;

- exploring a pre-market assessment scheme; and
- conduct an education campaign on psychoactive substances.

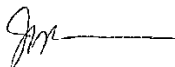
The RIS provides limited information on the size of health effects from new psychoactive substances. This makes it difficult to assess the size of the problem and benefits from government intervention as well as the costs to suppliers and consumers of new psychoactive substances. As a result the analysis does not demonstrate that banning the importation of new psychoactive substances has a net-benefit, because of this the RIS recommends maintaining the status quo. I note that consultation elicited submissions supporting a pre-market assessment scheme for new psychoactive substances, based on perceptions that the policy of prohibition has failed.

Publication requirements

The OBPR maintains a RIS website and the Government requires that RISs be posted within five business days of a regulatory decision being publicly announced. We would appreciate you advising us when a decision on this proposal is announced, and forwarding a final copy of the RIS in Microsoft Word .doc format in a form meeting the Australian Government's *Web Content Accessibility Guidelines*. We suggest liaising with your web services team to ensure these guidelines are met. The website provides a public comment facility on RISs posted on the site. The OBPR moderates this facility for offensive content but does not moderate debate.

Please retain this letter as a record of the OBPR's advice. Our reference number for this issue is 15249. If you have any further queries, please do not hesitate to contact me.

Yours sincerely



Jason McNamara
Executive Director
Office of Best Practice Regulation
July 2014