

INQUIRY INTO LAW REFORM ISSUES REGARDING SYNTHETIC DRUGS

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Date Received: 26/04/2012

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3 April 2012



Inquiry into Law Reform Issues Regarding Synthetic Drugs

The NSW Minerals Council (NSWMC) is the peak industry association representing NSW's \$20 billion minerals industry. NSWMC and its members are committed to providing a safe and healthy workplace and consider the effective regulation of synthetic drugs an essential step. NSWMC welcomes the opportunity to make a submission on the Legal Affairs Committee Inquiry into Law Reform Issues Regarding Synthetic Drugs.

Current regulation of synthetic drugs in NSW

The regulation of synthetic drugs in NSW currently relies on the listing of specific prohibited plants, drugs and chemicals in Schedule 1 to the *Drug Misuse and Trafficking Act 1985* (NSW). The problem with regulating by way of naming a specific chemicals used in the development of a prohibited drug is that drug manufacturers can change the chemical composition of substances to make it technically 'legal'.

Therefore, to maintain an effective regulation of synthetic drugs, constant consideration and scheduling of new substances must be relied on, which makes it difficult to effectively regulate substances that have the same or substantially similar pharmacological effects as banned substances, including tetrahydrocannabinols (THC).

Currently, new 'legal' synthetic drugs continue to be manufactured and released into the market and the use of these substances has significant flow on effects for the community and industry.

Workplace issues

Inadequate regulation of synthetic drugs makes it difficult for the NSW minerals industry to properly address work health and safety issues relating to drug and alcohol misuse. Prohibition of synthetic drugs and in particular, any drugs intended to have 'the same or substantially similar pharmacological effects' as banned substances, including THC, sends a clear message to workers and the community that the use of substances that have the ability to adversely affect work health and safety will not be tolerated.

Testing methods for synthetic drug use are not yet as advanced and reliable as those methods used for alcohol and other drugs. Further, the absence of an Australian Standard for testing of synthetic drugs presents problems for achieving a consistent approach to testing across industry that is accepted by members, workers and the community.

In view of the relative lack of advancement in testing for synthetic drugs, appropriate and consistent regulation of synthetic drugs reinforces the legitimacy of industry action which takes a proactive and serious approach to managing work health and safety risks arising from synthetic drug use.

The prohibition of recreational synthetic drugs also enables the use of substances to be dealt within existing enforcement regimes implemented by industry – including drug & alcohol procedures and disciplinary procedures –and is consistent with existing drug and alcohol awareness and education programs implemented across the industry.

A national approach

NSWMC firmly believes that the regulation of synthetic drugs must be done in a nationally uniform manner.

Most Australian states and territories have recently commenced a process of legislative reform to better address the regulation of synthetic drugs. Federally, consideration has already been given to improving regulation of 'recreational' synthetic drugs.

In February 2012, synthetic cannabinoids were incorporated into Schedule 9 (prohibited substances) to the Uniform Scheduling of Medicines and Poisons (SUSMP), including:

- A list of 8 known groups of synthetic cannabinoids (to capture any individual substances within those groups which were not specifically scheduled); and
- A group entry for 'synthetic cannabinomimetics' (except where separately and specifically scheduled). In other words to capture those chemical compounds that mimic the effects of THC.

These changes are expected to take effect from 1 May 2012.

This decision was made with the intention of addressing the difficulties presented by manufacturers changing the chemical composition of recreational synthetic drugs to create new 'legal' substances:

...such an entry would make it explicitly clear that all synthetic cannabinoids (except where specifically scheduled) were to be considered Schedule 9 substances. This would limit the promotion of "new legal mixes" containing synthetic cannabinoids which may not fall into the above eight chemical group entries. Members agree that communicating this position would act as a safety net allowing time for consideration of new synthetic cannabinoid chemical entries without the need for ongoing urgent scheduling .(Reasons for delegates Final decisions February 2012)¹

While the SUSMP contains decisions regarding the classification of substances into schedules, actual regulation of these substances relies on relevant states and territories to implement and/or amend legislation giving effect to the SUSMP.

A better regulatory approach for NSW

NSWMC believes the NSW Government should adopt the approach proposed for the SUSMP and regulate recreational synthetic drugs in NSW by prohibiting:

- The list of 8 known groups of synthetic cannabinoids identified in the SUSMP (to capture any individual substances within those groups which are not specifically prohibited); and



¹ www.tga.gov.au/word/.../scheduling-decisions-1202-final.doc

- 'Synthetic cannabinomimetics' as a 'catch-all' group to capture those chemical compounds that mimic the effects of THC.

NSWMC believes that any synthetic substances used for legitimate medicinal, research, training, teaching or analytical purposes can be dealt with by exception. Again, this is consistent with the approach adopted in the SUSMP.

Implementation of reforms

NSWMC believes these reforms could be implemented through amendments to the Drug Misuse and Trafficking Act 1985 (NSW) (in particular Schedule 1). Consequential amendments to other legislation may be necessary including the *Poisons and Therapeutic Goods Act 1966* (NSW), the *Crimes Act 1900* (NSW), *Criminal Procedure Act 1986* (NSW) and *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW).

Yours sincerely

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