



american cleaning institute®
for better living

July 11, 2013

Honorable John Shimkus
Chairman
Environment and the Economy Subcommittee
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

Honorable Paul Tonko
Ranking Member
Environment and the Economy Subcommittee
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

RE: Subcommittee Hearing on the Toxic Substances Control Act (TSCA)

Dear Chairman Shimkus and Ranking Member Tonko:

The American Cleaning Institute® (ACI) supports the modernization of TSCA. ACI has called for TSCA improvements since well before the current Congressional efforts to amend the law. ACI is the trade association representing the \$30 billion U.S. cleaning products market. ACI members include the formulators of soaps, detergents, and general cleaning products used in household, commercial, industrial and institutional settings; companies that supply ingredients and finished packaging for these products; and oleochemical producers.

ACI and its members are dedicated to improving health and the quality of life through sustainable cleaning products and practices. These products provide essential benefits to consumers while protecting human health and the environment. ACI's mission is to support the sustainability of the cleaning products industry through research, education, outreach and science-based advocacy.

A modernized TSCA has the potential to promote the innovation that our members have long used in developing sustainable cleaning products. In many ways, TSCA has fostered innovative developments in the U.S. and globally. A modernized TSCA would help contribute to improved public confidence in the chemicals used to manufacture consumer products and packaging. ACI commends the Subcommittee for its examination today of TSCA Section 5, addressing the introduction and new uses of chemical substances on to the U.S. market ("Manufacturing and Processing Notices"); and, TSCA Section 14, addressing the treatment of confidential business information (CBI) ("Disclosure of Data"). These sections are particularly important to innovative industries such as ours.

Maintaining a Robust U.S. Chemical Management Law Will Enhance Competitiveness

Any changes to TSCA must be practical and achievable in order to maintain U.S. leadership in the management of chemical substances. The innovative elements of TSCA must be maintained; ACI remains watchful for any regulatory changes to TSCA that would create unnecessarily high hurdles for the entry into the market of sustainable chemistries that our industry makes and uses. As an example, the Act currently allows EPA to review and take action if necessary to mitigate potential risks from a new chemical substance before the substance enters the market, while allowing for research and development flexibility, and the confidentiality of new technological developments maintained during all phases critical to market place innovation. Cleaning product manufacturers are leaders in greener chemistry innovations and these unique and breakthrough developments often stem from existing proprietary "knowledge capital." To that end, maintaining robust, recognized, effective and predictable confidential business information protection is a priority.

Improvements in the law should reflect changes in science and technology and advance innovation. Moreover, any U.S. chemical regulatory and management system must be risk-based and use the best science. EPA needs to take full advantage of information and data in chemical management programs, in addition to TSCA, and of the rapid advances in the science of hazard screening and risk assessment of chemicals. The Agency needs sufficient information to better inform chemical assessment and risk management decisions.

Maintaining Manufacturing Global Competitiveness and U.S. Job Creation Requires Careful Treatment of Confidential Business Information (CBI) and Speed to Market

The protection of confidential business information is essential to innovation, including the development of more sustainable “greener” products which leads to U.S. job creation. The following concepts are aspects to consider with regard to modernizing the statute. Data confidentiality provisions must protect proprietary information in the U.S. to encourage innovation and protect businesses from intellectual property losses that may imperil lines of business undermining U.S. job growth. These concerns extend to any limits on the protection of chemical identity, and to any arbitrary time limits on CBI claims. Along these lines, substantiation requirements for CBI claims must be balanced with already well-established criteria. Amendments should not alter the current Freedom of Information Act (FOIA) protection of trade secrets under which rules exist for commercial and financial information that is privileged and confidential under the law. Moreover, placing timeframes for the expiration of CBI are problematic given the nature and substance of submitted information. Consistent with similar provisions in other law, medical and health professionals should be permitted access to confidential chemical identities to diagnose or administer appropriate medical care with appropriate confidentiality agreements. The sharing of CBI with other government authorities must ensure that appropriate safeguards are in place. The protection of CBI is not at odds with a modernized TSCA that would enhance and expand EPA access to chemical health and safety effects information, which ACI supports. In this regard, the continued protection of CBI (e.g., the specific identities of chemicals) remains important. The robust protection of CBI provides industry confidence that they will be able to reap the benefits of their expenditure of both time and resources in research and development efforts to create newer, better products.

New products and greener chemistries get to U.S. consumers as fast as innovation allows because of the efficient and forthright method TSCA provides to accomplish this task. TSCA Section 5 gives EPA the authority to evaluate and regulate new chemical substances for use in the U.S. marketplace. In general terms, EPA accomplishes this through receipt and review of a premanufacture notice, only after which commercial production can commence, which results with the individual chemical substance being listed on an EPA inventory. EPA accomplishes much of this work using information already in its possession; or submitted by manufacturers and processors, or EPA can request additional information. Such requests invariably lead to the submission of information or the withdrawal of the premanufacture notice. It is a better constructed process than any command and control regime demanding reams of data up front irrespective of any regulatory need for the data. Moreover, the law allows EPA to interact and engage chemical substance manufacturers faster and more flexibly than any other global regulatory counterpart. This is a fundamental reason why TSCA Section 5 has worked so well. These important features of minimal delays, robust interactions between government and industry, and data flows to accomplish key health and environmental goals are paramount features that set the U.S. apart from other regimes around the world.

ACI remains committed to continuing as an active participant in bipartisan discussions, hearings, and meetings as well as other processes to advance the modernization of TSCA. ACI appreciates the opportunity to engage as a direct participant with you on the most critical issues related to updating the law in order to promote the safe use of chemicals; build public confidence in the chemical management system; protect American jobs, and maintain the U.S. global leadership role in chemical innovation.

Respectfully submitted,



Ernest S. Rosenberg
President & CEO

cc: Members of the Subcommittee on Environment and the Economy