



Department of Justice and Community Safety

Regulation Group

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Ms Sanchia Nigli
Coroner's Registrar
Coroner's Court of Victoria
65 Kavanagh Street
SOUTHBANK VIC 3006



Dear Ms Nigli

Thank you for your letter dated 22 July 2019, providing the findings of Coroner Simon McGregor in the investigation into the death of Mr [REDACTED] (COR 2017 5077).

Please find below the response of the Department of Justice and Community Safety (which includes Consumer Affairs Victoria) to Recommendation 2 of the Coroner's findings, prepared in consultation with the Department of Health and Human Services.

Recommendation	Response
<i>2. I recommend that Consumer Affairs Victoria consider what regulatory approaches to reducing the accessibility of helium as a means of suicide might be feasible in the regulatory environment of the State of Victoria, including requiring helium be mixed with other gases for sale as balloon gas as well as approaches already considered by the ACCC at the Commonwealth level.</i>	<p>There are unresolved issues with the Coroner's recommendation that need to be addressed.</p> <p>Party supply businesses sell or hire cannisters of pressurised helium gas for consumers to take elsewhere and fill up party balloons. Pressurised helium is not considered to be dangerous in and of itself, but can be used to inflict self harm resulting in injury or death.</p> <p>In this regard, there are two key risks:</p> <ul style="list-style-type: none">• firstly, that a person will manipulate the cannister so they can breathe in a concentrated amount of helium (such as by attaching a hose to the valve of the cannister), and• secondly, that a person will manipulate their environment to deprive themselves of oxygen while inhaling the helium (such as by placing a plastic bag over their head). <p>DJCS understands that some existing controls apply to the commercial import, transport and storage of helium. Additional Victorian controls on the availability and use of helium in domestic settings could include:</p> <ul style="list-style-type: none">• <i>A Victorian ban on the supply of pressurised helium cannisters – A legislative ban could be introduced to restrict the supply of helium</i>

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	<p>but this would likely impose significant costs on industry and stop many consumers from using helium for legitimate purposes. Individuals intending to self harm could still access helium across the Victorian border, and it would be difficult to enforce a ban against international suppliers selling products online.</p> <ul style="list-style-type: none"> • <i>Mandatory modifications</i> – Businesses could be required to include a bittering agent (or 'aversive') to ensure that the inhalation of helium is intolerably unpleasant or to delay the inhalation of a lethal amount by requiring a person to press continually on a pedal to release the helium. Such modifications would target the first risk identified in paragraph 1.1 by reducing the amount of helium inhaled. However, DJCS understands that the helium industry has previously raised concerns with the Australian Competition and Consumer Commission (ACCC) that such modifications may be prohibitively costly, resulting in businesses not supplying pressurised helium to consumers. There may also be an occupational health and safety risk to people who work with helium regularly if an aversive is inhaled. • <i>Mandatory warning labels</i> - Businesses could be required to apply mandatory warning labels to advise consumers of the risks of helium inhalation, but a fundamental issue is that warnings would not deter a person deliberately attempting suicide and would not address the key risks. • <i>A licensing regime</i> – A licensing regime typically includes restrictions on entering the market by requiring suppliers to meet certain probity and/or educational requirements and can support other requirements by providing intelligence for inspections and compliance monitoring purposes. However, a licensing regime could impose significant costs on businesses without addressing the key risks as misconduct by suppliers is not the issue. <p>In summary, only one of these interventions (mandatory modifications) would address the first key risk, and the second key risk is beyond any supplier's control.</p> <p>Liaison with health agencies, industry groups and community groups is required to:</p> <ul style="list-style-type: none"> • understand the demographics of those who misuse helium and what research they conduct; the impacts of associated injuries and deaths; and the number and size of Australian and Victorian businesses that may be affected by any interventions • ensure that any interventions pursued are proportionate, evidence based and effective, and do not perversely raise public awareness

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	<p>about how to commit suicide with helium (or result in individuals turning to more readily available means of suicide), and</p> <ul style="list-style-type: none"> understand the overlap between product safety interventions and mental health strategies across Australia. At the Victorian level, this includes the work of the Royal Commission into Victoria's Mental Health System, due to report on 31 October 2020. The Victorian Suicide Prevention Framework 2016-25 (the Framework) also includes initiatives to halve Victoria's suicide rate by 2025, and highlights the importance of a systems and coordinated approach to suicide prevention. Further information on the Framework is available from: https://www2.health.vic.gov.au/about/publications/policiesandguidelines/victorian-suicide-prevention-framework-2016-2025. <p>Noting the limitations of a state-based approach, DJCS will continue to liaise with the ACCC and health agencies to support holistic and national consideration of the issues, and to provide any appropriate support. Any national work should also consider developments in mental health strategies, and the ACCC's response to the Coroner's recommendation that it undertake a study to determine whether combinations of gases including oxygen could be used as safer forms of balloon gas.</p> <p>A national approach may also help increase governments' negotiation power to leverage any appropriate voluntary changes from the helium industry, including international suppliers.</p> <p>DJCS considers that any additional or supporting state-based intervention would be best assessed in light of any national outcomes.</p>

I trust this information is of assistance to you. Should you have any questions regarding the response, please contact Ms Bree Oliver, Acting Director – Policy and Governance Services on (03) 8684 1608 or at bree.oliver@justice.vic.gov.au.

Yours sincerely



Simon Cohen

Deputy Secretary, Regulation