

**This submission was provided to the Scheduling Secretariat, Office of Chemical Safety, Office of Health Protection, Department of Health and Ageing, ACT. Their email response follows the submission.**

Members of this association are shocked at the delegate's decision to list DMAA as S9 against the expert committee's recommendations. One has to wonder what the purpose of an expert committee is, if the delegate ignores expert advice. All this does is create doubt about the impartiality of the delegate in matters concerning the scheduling of what might loosely be called 'recreational drugs'.

The delegate's grasp of logic and reason on this matter is so flawed that we believe it could well be challenged in the courts. The delegate can expect a Motion of Disallowance on this matter as soon as it hits the parliament. How can the delegate complain about the 'high risk of illicit use' if the substance is legal and it only becomes illicit because of the delegate's unilateral action? Such a statement lends itself to an accusation of bias and even politicization of the debate.

All of the delegate's reasons for listing this substance as S9 were dismantled by the experts, except the issue in regards to 'high doses'. However this was well and truly addressed by regulation of dosage along the lines of oxedrine/synephrine and covered in more than one submission that we know of.

It is clear that the delegate was trying to take into account the broader trans-Tasman harmonization issues around this issue. If that was the case, then the delegate, by his/her own actions has admitted that the prima facie issues of harm and toxicity etc are not the only ones to consider but that broader social and political issues are also on the table now.

With this in mind, the delegate cannot say that trade and political issues between Australia and New Zealand are relevant to the debate on DMAA but issues around the creation of black markets, the political aspects of Australia's adoption of US Drug Policy and imprisonment rates at home for drug crimes, are not relevant.

Seventy per cent of inmates in Australian jails are there for drug related crime. The delegate needs to consider if making DMAA an S9 substance will further exacerbate that situation.

The delegate needs to consider whether the approach to DMAA taken by the Portuguese government has any ramifications for it's listing here.

The delegate cannot consider trans-Tasman agreements as any more or less important than the creation of an extensive black market in DMAA at home, that could result from an S9 listing.