

Assistant Secretary
Criminal Law and Law Enforcement Branch
Attorney-General's Department
3-5 National Circuit
BARTON ACT 2600

10th Feb. 2011

Implementation of model drug, plant and precursor schedules for Commonwealth serious drug offences

Dear Sir,

I have read the Discussion Paper in relation to the implementation of model drug, plant and precursor schedules for Commonwealth serious drug offences. I wish to object to the proposed expansion to list of plant and fungi species under the model schedule for controlled plants and I outline my reasons below.

Limited time has prevented the expansion of my arguments but nevertheless they express serious core doubts about the rationale and the outcomes of expanding the plant list.

There appears to be little concrete argument or justification for this proposal. Why and how the desired outcomes are to be achieved are too imprecise. To ban a large number of plants that already exist in this country in an effort "to target the criminal economy" is at best nebulous and suggests a serious lack of understanding of the species involved. On balance this proposal would seem to create more problems and considerable costs than benefits to the Australian community.

My objections are as follows:

- The plant species for proposed listing are considered by many in the community to be of no significant risk and pose no potential profit to criminals. The chemicals contained therein are not popular as recreational drugs and in some cases, for example, the alkaloids in Brugmansia and Datura, they are considered poisons rather than drugs.
- The plants species for proposed listing are already readily available throughout the international nursery trade. This tells us two things. On balance these species are not generally considered a risk by other jurisdictions world-wide and that they could be easily sourced by criminals but it appears they are not.
- Many of the plant species proposed for listing are of high commercial value to the nursery industry and many have botanical importance to plant collectors and specialist plant clubs and associations. Removal of these species represents a considerable cost to industry and potentially enormous losses to the specialist nurseries segment.

- The banning of these plant species creates very large and disproportionate costs and impracticalities to state and federal governments which simply can't be justified. Some of these include:
 1. Reimbursement and compensation to the nursery industry for loss of existing sale stock and investment materials.
 2. Cost of locating and removing of these plants, which in many cases occur in great numbers, from private home gardens, botanical gardens and parks and as escapees into government controlled land areas.
 3. Continued costs in ongoing monitoring of these areas because of the potential of many of these plants to reproduce from seed banks years after the parent plants have been removed.
 4. Unintended cost of the potential destruction of endangered native species. Some of these groups of plants proposed for listing contain individual species that require nursery propagation to ensure their ongoing survival, as in the case of the *Acacia phlebophylla*.
 5. Unintended costs, legal confusion and impracticalities arising from placing a ban on any plant that containing contains dimethyltryptamine. Many native *Acacia* species, plus many species from other genera growing all around Australia contain this chemical. Are we to suppose that these will be banned? Or removed?
 6. Cost of creating and managing effective public education programs in order to make known to the public and the nursery industry the species involved and the means by which to identify them.
- There will be the potential for unintended consequences and difficulties caused by the conviction of innocent, simply uninformed owners and growers of the plants proposed for ban.
- There is an inherent danger in spotlighting plants with some potential drug effects because they invite the naive and the young to experiment unsafely with plants from the proposed list, which if they weren't listed would be of no interest to this cohort. At worst deaths could result or an illicit industry could be spawned from such listings.

I thank you for reading thus far I hope that my comments and objections are duly noted and given weight within the deliberation process.

Yours Sincerely,

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