



Elite Supps Australia  
42 Wollongong St  
FYSHWICK  
2609  
ACT

28 November 2019

ATT: Therapeutic Goods Administration

136 Narrabundah Lane

Symonston

ACT

2609

**RE: Consultation on proposed clarification that certain sports supplements are therapeutic goods**

Dear TGA,

I am writing on behalf of our business and brand of 14 years, Elite Supplements Australia, in relation to the proposed changes to laws and regulations supposedly governing the specialty sports supplement market and industry practice.

Elite Supplements Australia has conducted an internal review on the impact of the proposed changes of the TGA on our business practices directly and has concluded that should the changes go through, approximately 80%+ of our 4000+ SKU inventory base will be impacted immediately. We foresee this creating nothing but a loss of approximately 80% of revenue for our business which will not put us in a position to continue operating and serving the everyday Australian.

Trying to succinctly quantify some examples of what that means for our business, our owners, our employees, our licensed stores, their owners and their employees can be listed (but is not all inclusive) of points mentioned below:

- Cessation of direct and indirect employment for over 200 Australians and immediate financial distress on the dependents of those Australian workers
- Extreme financial distress on Elite Supps brand and store owners due to inability to service outstanding loans with creditors which will likely result in default and bankruptcy. This also includes loss of revenue and corresponding inability to satisfy fixed costs and overheads. There are currently 35 leases held around the country in prominent locations and shopping centres such as [REDACTED]. This would likely mean 35 broken leases with personal guarantors in even further financial distress, which spills over to their dependents and personal liabilities.



Going a step further and reviewing the qualitative measures of what the proposed changes mean for our business sustainability and future, we also are of the opinion of the following:

- Loss of employment opportunity. A high proportion of our employment base are individuals aged 18-35 years old. With a high proportion of these young Australians attaining university and other post-college education to differentiate themselves in the workplace, only 70% of these people are finding employment within 6 months of completing their studies. We provide an opportunity for employment, growth and development for the 30% of those individuals as our business does not hinge upon graduate qualifications. Many of our former employees have gone on to open, own and operate their own stores and provide a living for themselves and their families
- Diminished ability to impact on improving health and lifestyle awareness in Australian citizens. Australians with diabetes and medical conditions from poor nutrition, lifestyle, exercise practices and lifestyle habits grow by at least 300 people daily which continues to cost the Australian taxpayer billions of dollars annually. From our inception, our brand has served over 250,000 individuals and has been a touchpoint to educate the everyday Australian father, mother, teenager and senior on how to improve their health and lifestyle with the use of our professional advice and uptake of appropriate supplementation. Our social media channels such as [REDACTED] as well as brand ambassadors collectively communicate with over 1 million Australians daily with advice and value on how to better oneself, increase fitness levels and health conditions overall.
- The rise of the black market will increase substantially. Illegal substances such as those that are prescription only, anabolic steroids and other drugs are likely to flood the market as the availability and access to current products will become significantly hampered, which is likely to create negative, costly and unplanned externalities for individuals trying to improve their lifestyle.

Again, neither list above is conclusive and can capture the sheer amount of quantitative and qualitative costs incurred nor benefits lost from the proposed changes being approved. Our business has been rapidly growing for the last 5 years. Our growth rate as an individual company, as well as the sports nutrition growth rate as an industry whole, has outstripped and outpaced the growth rate of the average Australian business and the Australian retail sector. With consistent news and economic debate discussing issues with Australia's growth and especially stagnation in the retail, our business has continued to thrive, serving more everyday Australians through brick and mortar and e-commerce channels than we have previously. In a commercial market with shopping centres struggling to operate profitably, Elite Supps store owners are signing new leases on an almost bi-monthly basis where much of the commercial market is currently clouded with lengthy disputes and litigation with broken leases.



Since the inception of Elite Supps, there have been many changes throughout the landscape of our industry with the trends, common practices, rules and regulations always changing. Amidst a hazy and often unclear regulatory environment, with contradictory rules and regulations overlapping from the Department of Agriculture, the Department of Health, the TGA and state-based government departments, already the journey has been a challenge for us in understanding what our legal requirements are. Yet with products and ingredients becoming scheduled substances and banned for sale on top of this, Elite Supps Australia has always sought an active effort to comply with legal direction where advised. This includes the advice of consultants who specialize in compliance with supplementation legislation captured by TGA and Department of Agriculture, industry experts such as [REDACTED], as well as solicitors and lawyers. In the last 6 months, the frequency of contact from the TGA directly to Elite Supps has increased substantially, yet as a brand we have followed directions that have costed us money and loss of revenue to ensure we are compliant. To how much our business practices are constantly nudged and prodded with ever increasing burdens really questions the implementation of the Morrison Government in attempting to reduce regulatory burdens and red tape for Australian small businesses in a challenging economic landscape.

Should all proposed changes go through, Elite Supps Australia would completely collapse and be the demise of over 1,500 people indirectly involved with the business' activities. It should be clear that Elite Supps Australia does not have an interest in resisting compliance or legislation that aims to increase the safety and protection of consumers of specialty supplement products. However, we are extremely concerned and distressed over the abruptness of these proposed changes on our business model and the extent to which it captures ours, as well as our entire industries' inventory bases. Our technical and financial ability to transition out of our current operating environment to the vision that TGA are articulating, and at the supposed pace that the TGA is proposing is simply unfeasible for us and will highly result in our entire business collapsing which, when taking all stakeholders of Elite Supps Australia into account, immediately will indirectly negatively impact an estimated 1,500 Australian individuals and families.

We urge the TGA to re-consider this current proposal and consolidate the quantifiable, economic and monetary based benefits of the sports supplement industry, as well as the intangible, spillover and social benefits of improving the quality of life for everyday Australians, into account to come to a conclusion that will support and improve our industry foundations, not crumble and disintegrate it.

Warm regards,

Elite Supps Australia