



Our ref: PRJ1002275  
Your ref: COR 2018 001315, COR 2017 002906 &  
COR 2017 005077  
Contact officer: Diana Thomas  
Contact phone: 02 6243 1089

23 Marcus Clarke Street  
Canberra ACT 2601  
GPO Box 3131  
Canberra ACT 2601  
tel: (02) 6243 1111  
www.accc.gov.au

11 September 2019

Ms Rosemary Carlin/Mr Simon McGregor  
Coroner  
Coroners Court of Victoria  
65 Kavanagh Street  
Southbank VIC 3006



By email: [cpuresponses@coronerscourt.vic.gov.au](mailto:cpuresponses@coronerscourt.vic.gov.au)

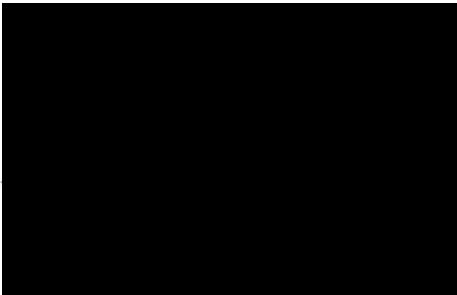
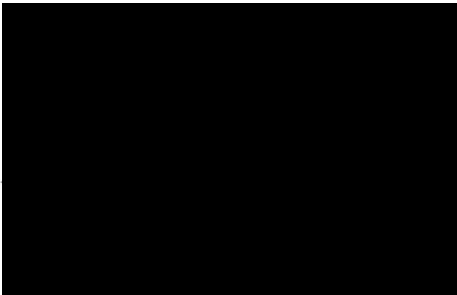
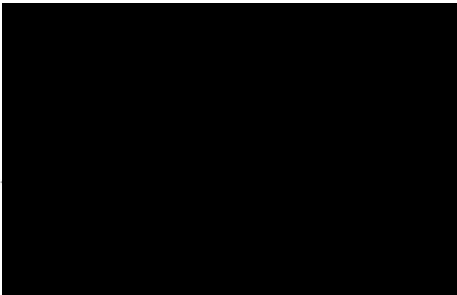
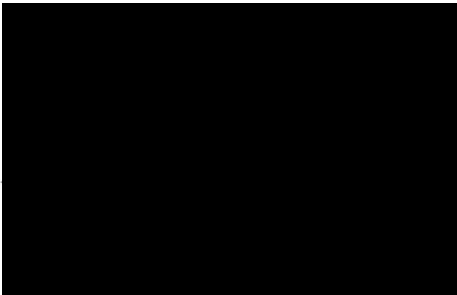
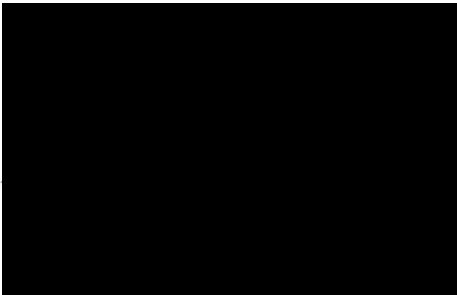
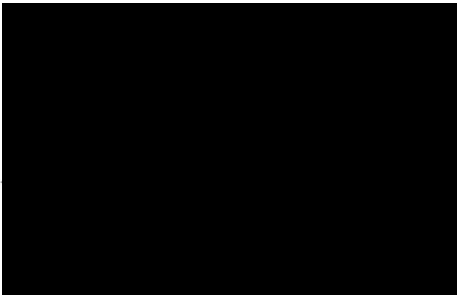
Dear Coroners Carlin and McGregor

**Response to investigations into the deaths of Jae W Manning, [REDACTED] and [REDACTED]**

This letter relates to findings and recommendations addressed to the Australian Competition and Consumer Commission (ACCC) in relation to the deaths of Jae W Manning, [REDACTED] and [REDACTED], which were found to be caused by deliberate inhalation of helium or argon gases. Recommendations to the ACCC include:

- Investigation into death of Jae W Manning (COR 2018 001315)
  - That the ACCC declare undiluted helium in balloon kits to be an unsafe product, and make 20 per cent oxygen dilution of helium in balloon kits compulsory.
  - That the ACCC to continue its work with helium manufacturers and suppliers.
- Investigation into death of [REDACTED] (COR 2017 002906)
  - That the ACCC expand the scope of its engagement with Australian gas manufacturers, importers and suppliers, to include not only helium but all common gases used in inert gas inhalation suicide, when considering what design modifications could be made to reduce people's ability to use gas cylinders and associated equipment in suicide.
- Investigation into death of [REDACTED] (COR 2017 005077)
  - That the ACCC undertake a study of different combinations of helium, oxygen, nitrogen and other gases to consider their safety, their suitability for use as balloon gas and their effectiveness in reducing or delaying the lethality of balloon gas inhalation.

The ACCC has also been notified of six other recent investigations by the Victorian Coroners Court into deaths caused by deliberate inhalation of helium or nitrogen:

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We wish to advise you that the recommendations are being carefully considered by the ACCC while noting that there are unresolved issues that need to be addressed.

### **Background**

Previous work undertaken by the ACCC in this area has focused on helium, given its availability for domestic purposes such as in balloon kits and comparatively prevalent use compared to other inert gases. The ACCC notes that other inert gases such as argon and nitrogen appear to be primarily sold for industrial purposes through specialist outlets.

As you are aware, the ACCC previously made submissions to the Advisory Committee on Chemicals Scheduling (ACCS) for inclusion of helium in the Standard for the Uniform Scheduling of Medicines and Poisons (Poisons Standard). The ACCS issued a final decision on 10 April 2018 that the Poisons Standard should not be amended to include helium on the basis that helium does not require scheduling. The ACCS noted that helium has many legitimate industrial, scientific and medical uses and the risks for helium do not exist unless it is deliberately inhaled. Submissions made to the ACCS by other stakeholders were primarily opposed to scheduling. Issues raised by these stakeholders included the potential detrimental impact on industry, detrimental effects on the occupational work health and safety of people working with helium and the general public, environmental impact and that helium does not meet the criteria for scheduling. Having considered the decision, the ACCC considers attempts to include other inert gases such as argon and nitrogen in the Poisons Standard are also likely to be unsuccessful for similar reasons.

### **Recent work undertaken by ACCC**

The World Health Organisation recommends a comprehensive multi-sectoral suicide prevention strategy which may comprise a range of prevention strategies such as surveillance, means restriction, media guidelines, stigma reduction and raising of public awareness as well as training for health workers, educators, police and other gatekeepers. The Fifth National Mental Health and Suicide Prevention Plan adopted by the Commonwealth Government contains a multi-faceted approach.

The ACCC has made initial approaches to mental health organisations to seek their views on the possible impact of restricting access to use of inert gases as suicide agents. We understand from our discussions that the primary focus of these mental health organisations has usually been on outreach, suicide prevention through early intervention and community initiatives rather than restriction of access to suicide agents.

The ACCC has also talked with international regulators regarding potential approaches to regulating access to helium gas, including the feasibility of diluting helium gas available for sale and design modifications to gas cylinders. To date regulators have been unable to identify approaches that they consider will be successful in addressing helium inhalation issues. Design modifications to cylinders or control valves to reduce the flow of gas have

been considered but could potentially be overcome by use of a bag filled with the gas. Gas suppliers have also raised concerns about the performance characteristics of diluted helium (such as diminished flotation time for balloons), potential flammability issues and the costs to industry of implementing helium dilution at the production stage.

The ACCC notes that the gas industry has previously taken steps to raise public awareness of the dangers of helium inhalation, albeit in relation to accidental death through misuse. An advertising campaign was commenced by gas suppliers Elgas and BOC in 2014 and gas supplier websites appear to generally provide warnings about the effects of helium inhalation.

#### **Further ACCC actions**

In light of the ACCC's previous discussions with external stakeholders and difficulties encountered by international regulators in identifying viable approaches, the ACCC has reservations about our powers and ability to deliver effective measures which address the multifaceted and complex issues associated with helium and other inert gas inhalation.

The ACCC intends to conduct further non-public consultation with international regulators and the gas industry to provide the parties with an opportunity to submit new information about the efficacy and viability of the measures suggested in your findings. The ACCC will then assess the further information stakeholders provide before considering whether further action can be taken.

Yours sincerely



Mr Neville Matthew  
General Manager  
Consumer Product Safety Branch