

EIR Release
Information released under the Environmental Information Regulations

Title: Noise Pollution from Propane Gas Guns and Policy

Date of release: 19 April 2013

Information released

The request has been considered under the Environmental Information Regulations (EIRs) 2004 on the basis that the information, does in our view, fall within the definition of 'environmental information' as stated in the EIRs.

For the sake of clarity the questions are listed in the order in which they were posed, followed by our answers where appropriate.

1. How many people do the DBIS employ in Europe?

We have around 2,500 staff working for BIS plus around 500 people working for UK Trade & Investment in the UK. Our partner organisations include 9 executive agencies employing around 14,500 staff. We have BIS offices in London, Sheffield, Billingham, Cardiff, Darlington, Glasgow, Manchester, Nottingham, Runcorn and Watford.

2. Is the DBIS's ultimate goal to make human life better?

Our aims as a Government Department can be found in our business plan: <https://www.gov.uk/government/publications/business-plan-2012-2015-department-for-business-innovation-and-skills>.

3. Is the DBIS aware that the Vehicle Certification Agency refers Complainants of Noise Pollution/Nuisance from Propane Gas Guns Outdoor Equipment in Agriculture) to the DBIS Government Agency to resolve complainants issues?

Propane Gas Guns do not fall within the scope of the Noise Emission in the Environment by Equipment for use Outdoors Regulations 2001, which implement the Directive (2000/14/EC) of the same name (herein after referred to as the Outdoor Noise Directive/Regulations). The Department for Business, Innovation & Skills (BIS) is the Competent Authority for the Outdoor Noise Directive/Regulations and is responsible for negotiation, transposition and implementation. The Vehicle Certification Agency (VCA) is tasked with carrying out enforcement activities in relation to the 57 products covered by the existing Outdoor Noise Directive/Regulations. Therefore, as Propane Gas Guns are outside the current scope, it follows that the VCA should refer such issues to BIS.

4. Do to the DBIS rely on Manufacturers informing them of any technical changes that could make Outdoor equipment louder,(Noise in the Environment) therefore potentially breaching the conformity ruling to the specifications on “outdoor equipment” that is listed?

No, this is not the way the management of the Outdoor Noise Directive/Regulations operates. The aim of the Outdoor Noise legislation is to harmonise the laws relating to noise emission standards, conformity assessment procedures, marking, technical documentation and collection of data concerning the noise emission of products within the scope of the Outdoor Noise legislation. In doing so the Outdoor Noise Directive will contribute to the smooth functioning of the internal market, while protecting health and well-being.

The Outdoor Noise Directive requires that a copy of the manufacturers EC declaration of conformity to be sent to the Member State Authority where he resides or places on the market, and also to the European Commission for each type of equipment referred to in the Outdoor Noise legislation. The European Commission collects the data contained in the EC declarations of conformity for the purposes laid down in Article 20 of the Outdoor Noise Directive.

STATEMENT AND QUOTE:- As stated from the Commission in May 2000 “The Commission felt that it is now necessary to embark on a new ADAPTATION and to extend the RANGE of the Equipment covered by the Framework”.

5. Does the DBIS agree that this above statement means that other equipment that is not listed, but produces NOISE and exceeds the EU ruling, can be an Adaptation to the List, and merits investigation by the DBIS to assess the Equipment in light of including it to Conformity Regulations?

QUOTE FROM VCA recently on the above Policy and this question. “This is a policy issue, so not appropriate for VCA to answer. BIS are responsible for policy in this matter”.

It is not within the remit of BIS to investigate and assess such equipment that lies outside the scope of the existing Outdoor Noise Directive/Regulations. The European Commission website contains links to previous studies carried out with a view to making a future amendment to the Outdoor Noise Directive. http://ec.europa.eu/enterprise/sectors/mechanical/noise-outdoor-equipment/index_en.htm.

The European Commission has recently tasked the Centre for European Policy Studies (CEPS) to work on a study in the field of the Outdoor Noise Directive and the Machinery directive (2006/42/EC). The purpose of the study is to provide support for an assessment by the Commission into the desirability/feasibility of an eventual merger of these two directives. In due course there may be a

possibility of introducing new types of equipment if there is sufficient evidence to support their inclusion within the scope of a recast Directive.

6. Does the DBIS see the above Statement as FACT that Agencies are not to review and not to extend adaptations to the Act? We need clarification on this paragraph because it seems that the VCA and the general public's view to this statement could be different? VCA's answer was "This is a policy issue, so not appropriate for VCA to answer" So please DBIS answer question 6, as we are told by VCA that this is in your remit.

Please see our response to question 5.

7. What is the DBIS's interpretation of this Statement above?

Please see our response to question 5.

8. Does the DBIS have an obligation to follow up and investigate enquiries from the general public into the matter with Propane Gas Guns? If there is no conversation on this matter, the list of 57 will never increase to 58 or further, does the DBIS agree or not agree?

If a member of the general public makes a complaint to BIS regarding a product currently within the scope of the Outdoor Noise Regulations, we will refer the matter to the VCA and ask them to investigate in their capacity as the UK enforcement authority for the Outdoor Noise Regulations.

BIS represents the UK at meetings in Brussels of the Outdoor Noise Working Group. BIS will also represent the UK in any future negotiations at European level to amend the Directive; these are the proper fora to discuss an extension to the scope of the Outdoor Noise Directive, for products currently not covered by the Directive. See also previous response to question 5.

9. Does the DBIS have direct contact with the EU Commission of matters of this nature that have difficult consequences and difficult decisions to be made? VCA's response when asked this question was:- "the VCA does not have contact with the EU Commission on policy matters. VCA reports to BIS and has no other role". Is this correct please?

Yes, BIS has direct contact with the Directorate General for Enterprise and Industry of European Commission, concerning the Outdoor Noise Directive. Please also see our response to question 3 regarding the demarcation between the BIS and VCA roles.

10. Does the DBIS recognise that since year 2000 the NOISE in the UK environment has escalated and is uncontrolled? The VCA stated that it is not in their remit but in the DBIS's remit to answer this please.

BIS has no evidence to support your comment.

11. Does the DBIS investigate complaints from the general public regarding Noise Nuisance Offenders?

No, this is not within our remit. Noise nuisance falls within the remit of local authority environmental health services.

12. Does the DBIS know if it is standard practise that the VCA check all new equipment that is “used outdoors”, or do they rely solely on the manufacturers submissions?

The VCA have responded to this in paragraphs 4 & 5 of their letter to you dated 21 March 2013.

13. The Noise level in the Environment is set at 65dBAs as set by the EU Commission, and any equipment that cannot be reduced in volume has to be withdrawn from the Market or prohibited (this means regulation on the times that it is used). There are exemptions to this, but the Propane Gas Gun is not on the exemption list, so therefore does not qualify as being a NECESSITY to the economy of the EU. Taking this into account does the VCA not think that the Commission would expect this Propane Gas Gun to be investigated by the VCA as it comes under Market Surveillance?

VCA responded "This is a policy issue, so not appropriate for VCA to answer". So therefore please can the DBIS answer question 13 appropriately.

Propane Gas Guns do not fall within the scope of the Outdoor Noise Directive/Regulations, the VCA is only obliged to follow up and investigate items covered by the current Outdoor Noise Directive/Regulations.

14. The Propane Gas Gun does not conform to the Directive of May2000, the decibel level emitted is above 65dBAs, this item emits 158dBAs at source, and because of the unusual nature of the item’s function i.e. this particular piece of equipment’s function does not include anything but producing NOISE, which by definition would qualify as a new Adaptation for Investigation by the VCA, does the VCA agree?

VCA's response was:-"See the previous response". So please can DBIS answer question 14.

Propane Gas Guns do not fall within the scope of the Outdoor Noise Directive/Regulations, the VCA is only obliged to follow up and investigate items covered by the current Outdoor Noise Directive/Regulations.

15. There is no mechanism on the Propane Gas Guns to reduce the maximum noise level which is 158dbAs, it qualifies because of the nature of the equipment and has been overlooked, which could come under the “Assessment and Management of environmental noise declaration 2002/49/EC”. Do the VCA think this piece of outdoor equipment has been overlooked?

VCA answered: "This is a policy issue, so not appropriate for VCA to answer" So please can DBIS answer question 15.

The Environmental Noise Directive (2002/49/EC) is outside the remit of BIS. Please refer to the Department for Environment, Food & Rural Affairs.
<http://www.defra.gov.uk/environment/quality/noise/>.

16. When did the DBIS last have a Manufacturer submit equipment for Conformity testing for noise, since the year 2000?

This is not within our remit. If the item falls under Article 12 (equipment subject to noise limits) of the Outdoor Noise Directive/Regulations, then they are tested periodically by the notified body that approved the product to ensure compliance with the noise limit.

17. DBIS please see the following as a question put to you as VCA clearly state this is in the DBIS's remit:- Is it not in the VCA's remit to pass on information to Brussels that is supplied to them by UK Citizens, when there is clearly a pronounced problem with noise in the environment by a piece of outdoor equipment whether it is on the list of 57, exempt or otherwise? "No. VCA's remit is to pass information to BIS in this matter,"

Please see our response to question 8.

Statement:- Human Rights Act, Article 8 20th April 2004 “ Established States have a positive obligation in terms of to secure protection against non-state polluters, the above clearly affirmed that the positive obligation of States is to guarantee Article 8 against interference by private interest and individuals” “Noise as torture, acoustic saturation.....The recognition that Noise maybe a torture has made it easier to accept that acoustic events outside impacting within your home can constitute a violation of Article 8. Anyone who has suffered from long periods from noise disturbance.....is well aware that the effects of this on the nerves and one's physical and mental well-being are extremely unpleasant and harmful.....This is the noise Directive at the end of this statement of the EU Parliament and the council of the 8th May 2000...” (Quote from wikipedia) The Propane Gas Gun which I have submitted for investigation has very harmful effects on many people around the UK and at the moment users of these devices are allowed to self-regulate and it is common for these devices to be left on for months on end, unattended, which is a high risk activity, because they are often left by bridleways and footpaths causing an added risk to the general public.

18. Are the VCA/DBIS aware of all these facts in the Human Rights Act above? As mentioned in the opening paragraphs of this response, VCA's response was "VCA does not have a policy role and is not therefore, engaged in the wider effects of noise pollution".

This is outside our remit. BIS is responsible for the negotiation, transposition and implementation of the Outdoor Noise Directive 2000/14/EC, only.

19. Is there anyone at the EU Commission to advise the DBIS on these matters?

Please refer to the European Commission website:

<http://europa.eu/pol/rights/>.

20. Gas Guns are not it seems in the remit of ANY regulative body including the Environmental Protection Act 1990 ACT which I found out a long while ago. THERE ARE NO CONTROLS ON PROPANE GAS GUNS WHATSOEVER AND THIS IS THE PROBLEM, the Local Councils are continually ADVISING THE GENERAL PUBLIC TO TAKE PRIVATE ACTION, WHEN IT ISN'T THE PUBLICS RESPONSIBILTY TO POLICE THE NOISE, IT IS THE PUBLICS RESPONSIBILTY TO SUPPLY INFORMATION REGARDING THESE TYPES OF DEVICES to Agencies like the VCA/DBIS who deal with NOISE in the ENVIRONMENT. There are no controls on Propane Gas Guns, so why are there all these Government Agencies, which the public are trying to co-operate with? It is in the spirit of co-operation that I submit these questions to jolt a Government Organisation into taking responsibility over these Devices, that have a potential to cause catastrophic Human Acoustic Damage at 158dB (Peak Noise), and also a threat to Human Health and Well-being in general.

Please see our response to questions 11 and 15.

21. If the DBIS state that the control of the Propane Gas Gun is not in their remit to make Human Life better, please do tell me who in the UK/Europe, at a Government level, has control over these Devices? As it seems no Government Organisation is willing to assist to protect their fellow human beings' health and well-being?

BIS is responsible for the negotiation, transposition and implementation of the Outdoor Noise Directive 2000/14/EC, only.

DEFRA is responsible for the negotiation, transposition and implementation of the Environmental Noise Directive 2002/49/EC.

Local authority environmental health services are responsible for following up cases of noise nuisance.