



Department
for Business
Innovation & Skills

Consultation on implementing Directive
2013/10/EU amending Directive
75/324/EEC on Aerosol Dispensers

Updating labelling requirements
in the Aerosol Dispensers
Regulations 2009

FEBRUARY 2014

Contents

1. Consultation on the implementation of updating labelling requirements for aerosol dispensers ..	3
2. Executive Summary	4
3. The Proposals.....	5
4. Consultation Questions.....	6
5. How to respond.....	7
6. Confidentiality & Data Protection	8
7. Help with queries	8
8. What happens next?	9
Annex 1: Draft Regulations – The Aerosol Dispensers (Amendment) Regulations.....	10
Annex 2: Explanation of the transposition of Commission Directive 2013/10/EU	12
Annex 3: Consultation Principles & Comments or Complaints on the conduct of this consultation	13
Annex 4: List of Individuals/Organisations to be consulted.....	14
Annex 5: Consultation response form.....	16
Annex 6: Impact Assessment	20

1. Consultation on the implementation of updating labelling requirements for aerosol dispensers

1.1 The Aerosol Dispensers Directive 75/324/EEC (the ADD) relates to the safety of aerosol dispensers. It contains labelling requirements for aerosol dispensers which are now out of date and have been superseded by new labelling requirements in Regulation no. 1272/2008 on the classification, labelling and packaging of substances and mixtures (known as CLP).

1.2 Commission Directive 2013/10/EU of 19 March 2013 (the 2013 Directive) amends the ADD to incorporate these changes, and will be brought into effect in the UK by an amendment to the Aerosol Dispensers Regulations 2009 (the 2009 Regulations) (S.I. 2009/2824).

1.3 This consultation seeks views on the draft Aerosol Dispensers (Amendment) Regulations 2014 (the 2014 Regulations) which will amend the 2009 Regulations to update the references to labelling requirements. **It is these draft 2014 Regulations that we are consulting on.** The draft 2014 Regulations are at Annex 1.

1.4 The consultation is relevant to stakeholders who are involved in the manufacture, labelling, distribution and importation of aerosols which fall within the scope of the amendment to the ADD. It is also relevant to those involved in the enforcement of the ADD. Consumers may also be interested in the consultation as it concerns the labelling provisions of aerosols dispensers which inform consumers of the hazards presented by them during use and storage.

1.5 The 2014 Regulations will amend the 2009 Regulations which can be found at: http://www.legislation.gov.uk/ukxi/2009/2824/pdfs/ukxi_20092824_en.pdf
The 2009 Regulations implemented the ADD. The 2014 Regulations will amend references to the Annex of the ADD, as required by the 2013 Directive. Additionally, it will provide for transitional provisions in relation to the requirements for the marking of aerosol dispensers containing a mixture and placed on the market before 1 June 2015.

Issued: 19 February 2014

Respond by: 17 March 2014

Enquiries to:
Christine Knox
Department for Business, Innovation & Skills
Product Regulation Team
European Reform Directorate
4th Floor Orchard 1
1 Victoria Street
London SW1H 0ET
Tel: 020 715 3465
Email: christine.knox@bis.gsi.gov.uk

2. Executive Summary

2.1 The Aerosol Dispensers Directive 1975/324/EEC (the ADD) sets out mandatory technical specifications to ensure the safety of aerosol dispensers. It covers aerosol dispensers defined as "non-reusable containers made of metal, glass or plastic and containing a gas compressed, liquefied or dissolved under pressure, with or without a liquid, paste or powder, and fitted with a release device allowing the contents to be ejected as solid or liquid particles in suspension in a gas, as a foam, paste or powder or in a liquid state". This Directive can be found at the following link:-

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31975L0324:en:HTML>

2.2 The ADD also contains labelling provisions to inform consumers of the hazards presented by aerosol dispensers during use and storage. The current labelling requirements of the ADD are now out of date as they refer to standards in other Directives which are due to be replaced and revoked on 1 June 2015. It is necessary therefore to amend these labelling requirements accordingly. The new labelling requirements for substances and mixtures, including aerosol dispensers, are now detailed in Regulation (EC) No 1272/2008 on the classification, labelling and packaging of substances and mixtures (the CLP Regulation). It is therefore necessary to align the labelling provisions of the ADD to the CLP Regulation and change the ADD accordingly. This was done through amending Directive 2013/10/EU (the 2013 Directive).

CLP Regulation

2.3 The CLP Regulation uses the criteria for the labelling set out in the Globally Harmonised System of labelling which has been adopted at the international level. This Regulation is already in force and in some cases the UK aerosol industry is already complying with its labelling provisions.

2.4 The CLP Regulation came into effect for single substances from 1 December 2010 and applies to mixtures from 1 June 2015. In the interim, before the ADD could be amended to reflect the new CLP changes, the European Commission issued guidance on how the labelling requirements should be applied to single substance aerosol dispensers. This guidance was published by BIS and said that single substances should be labelled in accordance with CLP requirements only:

<https://www.gov.uk/government/publications/labelling-aerosol-dispensers-guidance-on-add-and-clp-regulation-requirements>

2.5 However, to allow adequate time to adapt to the new aerosol labelling provisions for those UK aerosol manufacturers not yet complying with the CLP, the 2013 Directive allows that aerosols containing a single substance need not apply its labelling provisions until 19 June 2014. Similarly, aerosols containing mixtures need not comply with the new provisions until 1 June 2015. Additionally, such aerosols marked in accordance with the previous labelling regime and placed on the market before 1 June 2015 are not required to be re-labelled in accordance with the 2013 Directive until 1 June 2017.

2.6 BIS have liaised closely with representatives of the UK aerosol industry at all stages in the development of the 2013 Directive. The United Kingdom's policy objectives are to ensure that only safe aerosol dispensers are placed on the market and that the labelling

of aerosol dispensers for flammability hazards and precautionary statements is in line with that specified in the CLP Regulation. The 2009 Regulations, as amended by the 2014 Regulations, will continue to provide an updated safety framework for aerosols dispensers and enhanced consumer protection.

2.7 The date for transposition of the 2013 Directive is 19 March 2014. Hence the reason for consulting now on the draft Aerosol Dispensers (Amendment) Regulations 2014, which will implement this Directive. All the responses to this consultation will be considered carefully. A Government Response to this consultation will be issued following the consultation.

2.8 The 2009 Regulations cover the whole of the United Kingdom. The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses. Could you please state whether parts of your responses are confidential (although please be aware we may not be able to guarantee confidentiality).

2.9 An impact assessment has been produced for the Regulations. This is attached at Annex 6 to this document.

3. The Proposals

3.1 As mentioned earlier, the proposals in the 2014 Regulations, change certain labelling references in 2009 Regulations in order to align them with the new requirements detailed in the CLP Regulation. The proposals amend the following provisions of the 2009 Regulations:

Volume of the liquid phase in aerosol dispensers

- Regulation 3(5), on the volume of the liquid phase in aerosols dispensers, is updated by changing a reference to the ADD from “point 2.4” to “point 2.3”

This change reflects the change in numbering in the amended ADD - the text remains the same and reads:

“The volume of the liquid phase at 50 °C must not exceed 90 % of the net capacity”.

Labelling of aerosol dispensers

- Regulation 3(8)(a) on the labelling of aerosol dispensers is changed by updating a reference to the relevant Article in the ADD from “Article 8.1(a), (c) and (d)” to “Article 8.1(a), (c) and (d)”

Although the wording of the ‘new’ reference to the relevant ADD Article remains the same as wording of the ‘old’ reference, the amendment nevertheless needs to be made to “update” the reference in the 2009 Regulations reflect the new updated Article in the ADD. Otherwise, due to UK rules of statutory interpretation, the ‘old’ reference would continue to be read as a reference to the old Article, before it was revised by the 2013 Directive – an explanatory note providing more detail on this

particular amendment is attached at Annex 2.

This amendment to the ADD brings into effect changes to the labelling of aerosols dispensers so that point 2.2 of the Annex to the ADD is amended to read:-

“Without prejudice to Regulation (EC) No 1272/2008, each aerosol dispenser must visibly bear the following legible and indelible marking:

(a) whatever its contents:

(i) the hazard statement H229: “Pressurised container: May burst if heated”;

(ii) the precautionary statements P210 and P251 provided for in Part 1, Table 6.2 of Annex IV to Regulation (EC) No 1272/2008;

iii) the precautionary statement P410 + P412 provided for in Part 1, Table 6.4 of Annex IV to Regulation (EC) No 1272/2008;

(iv) the precautionary statement P102 provided for in Part 1 Table 6.1 of Annex IV to Regulation (EC) No 1272/2008, where the aerosol dispenser is a consumer product;

(v) any additional operating precautions which alert consumers to the specific dangers of the product; if the aerosol dispenser is accompanied by separate instructions for use, the latter must also reflect such operating precautions;

(b) where the aerosol is classified as “non-flammable” according to the criteria of point 1.9, the signal word “Warning”;

(c) where the aerosol is classified as “flammable” according to the criteria of point 1.9, the signal word “Warning” and the other label elements for “Flammable Aerosols Category 2” provided for in Table 2.3.2 of Annex I to Regulation (EC) No 1272/2008;

(d) where the aerosol is classified as “extremely flammable” according to the criteria of point 1.9, the signal word “Danger” and the other label elements for Flammable Aerosols Category 1” provided for in Table 2.3.2 of Annex I to Regulation (EC) No 1272/2008”

3.2 In addition, the 2014 Regulations provide for certain derogations from the date of application of the new labelling requirements for aerosol dispensers containing mixtures.

4. Consultation Questions

4.1 The consultation questions are listed below for ease of reference so that consultees can get an overview of what information is sought and can refer to them swiftly.

4.2 We are asking the questions to get a better idea of the impact on business, which will in turn inform the impact assessment.

Question 1: Do you foresee any additional costs as a result of implementing these regulations? If so can you quantify these? Which years do you expect these costs to fall in? eg x% in 2014, y% in 2015

Question 2: What proportion of your labelling takes place (a) domestically (b) overseas?

Question 3: At what stage of the product cycle is the label finalised?

Question 4: How often do you update your labelling?

Question 5: How many product lines are affected by the CLP changes? And what is the breakdown of these between 'single substance' and 'mixture' aerosol dispensers?

Question 6: What is the cost per product line of implementing these changes? And what is the breakdown of these between 'single substance' and 'mixture' aerosol dispensers?

Question 7: If you are an SME, do you expect this proposal to have a particular impact on your business?

Question 8: Do you consider that the proposed Regulations as a whole are effective and proportionate?

5. How to respond

5.1 When responding please state whether you are responding as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents by selecting the appropriate interest group on the consultation form and, where applicable, how the views of members were assembled.

5.2 The Consultation Response form is attached at Annex 5 in this document. It can be submitted by email or by letter to:

Christine Knox
Department for Business, Innovation & Skills
4th Floor Orchard 1
1 Victoria Street
London SW1H 0ET

Tel: 020 7215 3465

Email: aerosolregsconsultation@bis.gsi.gov.uk

5.3 A list of those organisations and individuals consulted is at Annex 4. We would welcome suggestions of others who may wish to be involved in this consultation process. Please feel free to forward this consultation to anyone you think may be interested.

5.4 You may make printed copies of this document without seeking permission. BIS consultations are digital by default but if required printed copies of the consultation document can be obtained from:

BIS Publications Orderline
ADMAIL 528
London SW1W 8YT
Tel: 0845-015 0010
Fax: 0845-015 0020
Minicom: 0845-015 0030
www.bis.gov.uk/publications

5.5 Other versions of the document in Braille, other languages or audio-cassette are available on request.

6. Confidentiality & Data Protection

6.1 Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want information, including personal data that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

6.2 In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

7. Help with queries

7.1 Questions about the policy issues raised in the document can be addressed to:

Christine Knox
Department for Business, Innovation & Skills
4th Floor Orchard 1
1 Victoria Street
London
SW1H 0ET
Tel: 0207 215 3465
christine.knox@bis.gsi.gov.uk

7.2 The consultation principles are in Annex 3.

8. What happens next?

8.1 This consultation enables the United Kingdom to make the new legislation necessary to implement the requirements of Directive 2013/10/EU. The Regulations will be laid in Parliament to come into force on 19th June 2014. The Government's Response will be placed on the BIS website with paper copies of the summary of responses made available on request.

Annex 1: Draft Regulations – The Aerosol Dispensers (Amendment) Regulations

2014 No. XXXX

CONSUMER PROTECTION

The Aerosol Dispensers (Amendment) Regulations 2014

<i>Made</i>	- - - -	<i>2014</i>
<i>Laid before Parliament</i>		<i>2014</i>
<i>Coming into force</i>	- -	<i>19th June 2014</i>

The Secretary of State makes these Regulations in exercise of the powers conferred by section 11 of the Consumer Protection Act 1987⁽¹⁾.

In accordance with section 11(5) of the Consumer Protection Act 1987⁽²⁾ the Secretary of State has consulted such organisations as appear to him to be representative of interests substantially affected by the following Regulations, such other persons as he considered appropriate and the Health and Safety Executive.

Citation and Commencement

1. These Regulations may be cited as the Aerosol Dispensers (Amendment) Regulations 2014 and come into force on 19th June 2014.

Interpretation

2. In these Regulations—

“mixture” means a mixture or solution composed of two or more substances; and

“substance” means a chemical element and its compounds in the natural state or obtained by any manufacturing process, including any additive necessary to preserve its stability and any impurity deriving from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition.

⁽¹⁾ 1987 c.43. Section 11(1) was amended by S.I. 2005/1803, regulations 46(1) and (3).

⁽²⁾ Section 11(5) was amended by S.I. 2008/960, article 22 and Schedule 3.

Amendments to the Aerosols Dispensers Regulations 2009

- 3.—(1) The Aerosol Dispensers Regulations 2009⁽³⁾ are amended as follows.
- (2) In Regulation 3(5), for “point 2.4”, substitute “point 2.3”.
- (3) In Regulation 3(8)(a), for “Article 8.1(a), (c), and (d)”, substitute “Article 8.1(a), (c), and (d)”.

Transitional Provisions

4.—(1) Subject to paragraph (2), regulation 3 does not apply before 1st June 2015 to the marking of an aerosol dispenser containing a mixture.

(2) Regulation 3 does not apply before 1st June 2017 to the marking of an aerosol dispenser containing a mixture that was placed on the market before 1st June 2015.

	<i>Name</i>
	Title
Date	Department for Business, Innovation and Skills

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend The Aerosol Dispensers Regulations 2009 (S.I. 2009/2824) (the “2009 Regulations”). The 2009 Regulations implement Council Directive 1975/324/EEC on the approximation of the laws of the Member States relating to aerosol dispensers (OJ L 147, 9.6.1975, p.40) (the “Directive”).

These Regulations implement Commission Directive 2013/10/EU (OJ L 77, 20.3.2013, p. 20), as amended by the Corrigendum to Commission Directive 2013/10/EU (OJ L 91, 3.4.2013, p. 16) (the “2013 Directive”). The 2013 Directive amends the Directive to adapt the Directive’s provisions to the labelling requirements of Regulation (EC) No. 1272/2008 of the European Parliament and of the Council on the classification, labelling and packaging of substances and mixtures (OJ L 353, 31.12.2008, p. 1).

Regulation 3 amends references to the Annex of the Directive as amended by the 2013 Directive.

Regulation 4 provides for transitional provisions in relation to the requirements for the marking of aerosol dispensers containing a mixture and placed on the market before 1 June 2015.

A full impact assessment of the effect that these Regulations will have on the costs of business and the voluntary sector has been prepared. As these Regulations transpose a Commission Directive, a transposition note setting out how the Government will transpose into UK law those elements of that Directive has been prepared. Copies of the impact assessment and the transposition note have been placed in the libraries of both Houses of Parliament and are also annexed to the Explanatory Memorandum which is available alongside the instrument on the www.legislation.gov.uk website.

⁽³⁾ S.I. 2009/2824.

Annex 2: Explanation of the transposition of Commission Directive 2013/10/EU

Commission Directive 2013/10/EU (the 2013 Directive) makes certain amendments to Directive 75/324/EEC (the ADD) in order to bring the ADD into line with the requirements for the labelling of aerosol dispensers in Regulation (EC) No. 1272/2008. The ADD is implemented in UK law by the Aerosols Dispensers Regulations 2009 (the 2009 Regulations). This short note is intended to explain how BIS proposes to amend the 2009 Regulations to implement the 2013 Directive. We have produced this note because the effect of the amendments on the 2009 Regulations is not necessarily clear from the face of the draft amending 2014 Regulations (the 2014 Regulations).

The 2013 Directive replaces points 2.2 to 2.4 of the Annex of the ADD with new points 2.2 and 2.3. It does this by: (i) substituting for old point 2.2 a new point 2.2; (ii) deleting old point 2.3; and (iii) transferring old point 2.4 to new point 2.3. The 2013 Directive also substitutes, for the reference in Article 8.1(d) of the ADD to the requirements of points 2.2 and 2.3 of the Annex, a reference to the requirements of point 2.2 of the Annex.

There are a number of changes to the 2009 Regulations that are required as a result of the changes made to the ADD. The draft 2014 Regulations implement these changes. These are as follows.

Regulation 3(5) of the 2009 Regulations makes reference to point 2.4 of the Annex of the ADD. As described above, point 2.4 of the Annex has been transferred to point 2.3 by the 2013 Directive. The reference in regulation 3(5) must therefore be amended to refer to point 2.3 of the Annex. Regulation 3(2) of the draft 2014 Regulations achieves this.

Regulation 3(8)(a) of the 2009 Regulations makes reference to the information required by Article 8.1(d) of the ADD. The text of Article 8.1(d) of the ADD has been amended by the 2013 Directive, as described above. Rules of statutory interpretation in UK law require the current reference to Article 8.1(d) in regulation 3(8)(a) to be read as a reference to Article 8.1(d) in the state that it was when the 2009 Regulations were made in 2009. This means that even though the text of Article 8.1(d) has changed, the reference to Article 8.1(d) in regulation 3(8)(a) will continue to be read as a reference to Article 8.1(d) before it was amended by the 2013 Directive. We must therefore amend regulation 3(8)(a) to make a new reference to Article 8.1(d), which will be read as a reference to Article 8.1(d) of the ADD, as amended by the 2013 Directive. Regulation 3(3) of the draft 2014 Regulations achieves this. Although the text of regulation 3(8)(a) has not actually changed, the amendment ensures that the reference to Article 8.1(d) is a reference to that provision, as amended by the 2013 Directive.

Annex 3: Consultation Principles & Comments or Complaints on the conduct of this consultation

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<http://www.cabinetoffice.gov.uk/sites/default/files/resources/Consultation-Principles.pdf>

Comments or complaints on the conduct of this consultation

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to:

John Conway,
BIS Consultation Co-ordinator,
1 Victoria Street,
London
SW1H 0ET

Telephone John on 020 7215 6402

or e-mail to: john.conway@bis.gsi.gov.uk

However if you wish to comment on the specific policy proposals you should contact the policy lead. (Please see Section 5 for the contact details).

Annex 4: List of Individuals/Organisations to be consulted

3M United Kingdom plc	Consumers' Association
Aerosol Fluid Technology	CTPA Cosmetic, Toiletry & Perfumery Association
Aerosol Products Ltd	Coster Aerosols Ltd
Akzo Nobel Industrial Chemicals bv	CRC Industries UK Limited
AkzoNobel Decorative Paints UK Ltd	Crown Aerosols
AkzoNobel Surface Chemistry	D H Industries Limited
Albedo100 UK Ltd	DanGoods Training & Consultancy Ltd.
AMTAC Laboratories	Den Braven Romania Comex
APPE Association of Petrichemical Producers in Europe	Design Plus Packaging Ltd
Aptar Beauty & Home	DH Industries Ltd
Ardagh Group	Eco-Burner Ltd
ABPI Association of the British Pharmaceutical Industry	Elizabeth Arden (UK) Ltd
Autosmart International Ltd	Ely Chemical Co. Ltd
Avon Aerosol Products	Energizer Personal Care
Aztec Aerosols Ltd	Envases (UK) Ltd
B & Q plc.	Falcon Safety Products UK Limited
Ball Aerocan UK Ltd	Federation of Small Businesses
Barony Universal Products Plc	Fillcare
Battle Hayward & Bowers Ltd	Gillette (UK) Ltd
Beautimatic International Ltd	GlaxoSmithKline Consumer Healthcare
Beiersdorf UK Ltd	Goodmark Plc
Berry Plastics UK Ltd	Greenway Environmental Ltd
Bespak Plc	H K Wentworth
BOC Speciality Gases	Halliday, Stack and Dewhirst Limited
Boots Company plc	Harp International Limited
Boxal Netherlands	Health & Safety Executive
BP Gas	Health and Safety Executive for Northern Ireland (HSENI)
British Adhesives and Sealants Association	Henkel Ltd
BAMA British Aerosol Manufacturers' Association	Honeywell Fluorine Products Europe BV
British Association for Chemical Specialities	Hydrokem Aerosols Ltd
British Coatings Federation Ltd.	IMP Ltd
BCGA British Compressed Gases Association	IntelliGent Solutions (Europe) Ltd
British Importers Association	Inyx Pharma Ltd
British Plastics Federation	James Briggs A Division of ITW Limited
British Retail Consortium	Jason Group
British Rubber Manufacturers Association	Johnson & Allen Ltd
BSI Product Services	Just-Chem
C & P Developments (London) Ltd	KBIG Ltd
Caniel Packaging Industries	Keen (World Marketing) Ltd
Cascade Technologies Ltd	KP Aerofill
CavinKare Private Limited	Kuwait Petroleum International Lubricants
Cebal UK Ltd	LEC (Liverpool) Ltd
ChemCheck Services	Leo Pharma
Chem-Dry Ltd	Lever Faberge
Chemical Industries Association	Lindal Valve Co. Ltd
Chemviron Carbon Ltd	LMA Services Ltd
Church & Dwight UK Limited	London Scientifics
CMA (UK) Ltd	L'Oreal UK Ltd
Coda Plastics Limited	LP Gas Association
Colep UK Ltd	MC Products Ltd
Colgate-Palmolive Ltd	Miswa Chemicals Ltd
National Pharmacy Association	Sumitomo Chemical (UK) Plc

Net-Tex Agricultural Ltd	Summit Europe cv
No Climb Products Ltd	Swallowfield plc
P&O Aerosols	Tallon International Ltd
Personal Hygiene Services Ltd	Tetrosyl Limited
Pharmasol	Tor Coatings Limited
PRA Coatings Technology Centre	Total Pack Ltd.
Precision Valve (UK) Ltd	Turtle Wax Europe b.v.
Procter & Gamble U.K.	UKCPI UK Cleaning Products Industry Association
Product Safety Focus Group	Unilever UK
Provensis Limited	United Aerosols
Punch Industries (UK) Ltd	U-Pol
PZ Cussons (International) Ltd	USC Europe UK Ltd
R&R (Midlands) Ltd	Wear Valley Aerosols Ltd
RA Jones	Wella (UK) Ltd
Raebrook Ltd	Woodhurst Innovations Ltd
Raupack Ltd	WV Associates Limited
Raymond Regulatory Resources	
Reabrook Ltd	
Reckitt Benckiser Healthcare (UK) Ltd.	
Rentokil Initial Supplies	
Revlon International Corporation	
Robert McBride Ltd Aerosols & Aircare	
Robinson Gale-Tash UK Ltd	
Rocol	
Safeware Quasar Ltd	
Sanglier Ltd	
Sanmex International Plc	
Sara Lee Household and Body Care UK	
Sauflon UK	
SC Johnson Ltd	
SCJ EurAFNE	
Seaquist Perfect Dispensing Ltd	
Seldon Research Ltd	
Shell Gas (LPG)	
Sherwin Williams Diversified Brands	
Shirley Technologies Ltd.	
Sievert UK Ltd	
Solvents Industry Association	
Solvitol Ltd	
Specialised Aerosols Co. Ltd.	
Specialised Chemicals Ltd	
Spotless Punch Limited	
Stadmar Ltd	
Statestrong Ltd.	

Annex 5: Consultation response form

The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses. Could you please state whether parts of your responses are confidential (although please be aware we may not be able to guarantee confidentiality).

The closing date for this consultation is 17 March 2014.

Please return completed forms to:

Christine Knox
 Department for Business, Innovation & Skills
 4th Floor Orchard 1
 1 Victoria Street
 London SW1H 0ET
 Tel: 020 7215 3465
 Email: aerosolregsconsultation@bis.gsi.gov.uk

We would like respondents to tick a box from a list of options that best describes them at a respondent. This allows views to be presented by group type.

	Business representative organisation/trade body
	Central government
	Charity or social enterprise
	Individual
	Large business (over 250 staff)
	Legal representative
	Local Government
	Medium business (50 to 250 staff)
	Micro business (up to 9 staff)
	Small business (10 to 49 staff)
	Trade union or staff association
	Other (please describe)

Question 1: Do you foresee any additional costs as a result of implementing these regulations? If so can you quantify these? Which years do you expect these costs to fall in? eg x% in 2014, y% in 2015

Comments:

Question 2: What proportion of your labelling takes place (a) domestically (b) overseas?

Comments:

Question 3: At what stage of the product cycle is the label finalised?

Comments:

Question 4: How often do you update your labelling?

Comments:

Question 5: How many product lines are affected by the CLP changes? And what is the breakdown of these between 'single substance' and 'mixture' aerosol dispensers?

Comments:

Question 6: What is the cost per product line of implementing these changes? And what is the breakdown of these between 'single substance' and 'mixture' aerosol dispensers?

Comments:

Question 7: If you are an SME, do you expect this proposal will have a particular impact on your business?

Comments:

Question 8: Do you consider that the proposed Regulations as a whole are effective and proportionate?

Comments:

Do you have any other comments that might aid the consultation process as a whole?

Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.

Thank you for your views on this consultation. However, as part of the BIS wider customer survey plans, we would appreciate your views on below.

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply ☐

At BIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

☐ Yes ☐ No

Annex 6: Impact Assessment

Title: Updating labelling requirements in the Aerosol Dispensers Regulations (EU Directive 2013/10/EU)	Impact Assessment (IA)
IA No: BIS EUD001	Date: 03/12/2013
Lead department or agency: Department for Business, Innovation and Skills	Stage: Consultation
Other departments or agencies:	Source of intervention: EU
	Type of measure: Secondary legislation
	Contact for enquiries: Christine Knox 020 7215 3465
Summary: Intervention and Options	RPC Opinion: Fit for purpose

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-Out?	Measure qualifies as
-4.93	-4.93	1.07	No	NA

What is the problem under consideration? Why is government intervention necessary?

Aerosol dispensers must carry labels to inform consumers of the hazards they present during use and storage. Mandatory labelling requirements are set out in the Aerosol Dispensers Directive 1975 (ADD) and implemented in the UK by the Aerosol Dispensers (Safety) Regulations 2009. The current labelling requirements of the Directive are now out of date as they refer to standards in other Directives which are due to be replaced and revoked by 1 June 2015. The Aerosols Directive has been updated to refer to the new labelling provisions and it is necessary therefore to amend the labelling requirements references in the UK regulations accordingly.

What are the policy objectives and the intended effects?

The objective is to align the labelling requirements in the Aerosol Dispensers Regulations with modern international practice as set out in the new labelling requirements for aerosols brought in by EC Regulation 1272/2008 on the classification, labelling and packaging of substances and mixtures (CLP Regulation).

This will ensure that aerosol dispensers carry the correct safety information to better protect consumers.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 1 'revise the Aerosol Regulations' - PREFERRED - this would ensure that UK regulations are updated to reflect current labelling requirements and ensure that aerosol dispensers carry the correct safety information to better protect consumers.

Option 2 'non-regulatory approach' - rejected as any non-legislative approach would mean that UK business would then be legally required to implement two different sets of labelling provisions, under ADD and CLP. This would put UK business at a disadvantage to other EU Member States and would probably confuse the consumer. It would also ignore the legal requirement for Member States to implement as set out in the amended Aerosols Directive.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 06/2019

Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A		Non-traded: N/A

Summary: Analysis & Evidence Policy Option 1**Description:** Revise the aerosol regulations**FULL ECONOMIC ASSESSMENT**

Price Base Year 2013	PV Base Year 2013	Time Period Years 4	Net Benefit (Present Value (PV)) (£m)		
			Low: -5.21	High: -4.56	Best Estimate: -4.93

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	4.8		0.0	4.6
High	5.5		0.0	5.2
Best Estimate	5.2		0.0	4.9

Description and scale of key monetised costs by 'main affected groups'
There will be some transitional costs to UK business from updating the labelling on their products, specifically in relation to design. There could be possible wastage of existing stock that does not conform to the new legislation, although this should be limited as there are some transitional provisions in place for stock to be sold through until June 2017.

Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0.0		0.0	0.0
High	0.0		0.0	0.0
Best Estimate	0.0		0.0	0.0

Description and scale of key monetised benefits by 'main affected groups'

Other key non-monetised benefits by 'main affected groups'
The main benefits of the changes are to consumers from the simplified labelling, which should make aerosol labelling easier to understand. This could potentially lead to an increase in awareness of how best to handle, use and store aerosols and so may lead to a reduction in aerosol related accidents or injuries. It is not possible to quantify these benefits in this instance.

Key assumptions/sensitivities/risks **Discount rate (%)** 3.5%
The quantification of industry costs is a conservative estimate as companies are likely to have incurred some of these costs anyway as part of their product labelling lifecycle. Fast-moving personal care products, such as deoderants, can change product branding every 18 months.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: 1.1	Benefits: 0.0	Net: -1.1	No	NA

Evidence Base

Problem under consideration

1. Aerosol dispensers must carry labels to inform consumers of the hazards they present during use and storage. Mandatory labelling requirements are set out in the Aerosol Dispensers Directive 1975 (ADD) and implemented in the UK by the Aerosol Dispensers (Safety) Regulations 2009. The current labelling requirements of the Directive are now out of date as they refer to standards in other Directives which are due to be replaced and revoked by 1 June 2015.
2. The new labelling requirements for substances and mixtures, including aerosol dispensers are now detailed in Regulation (EC) No 1272/2008 on the classification, labelling and packaging of substances and mixtures (CLP). The CLP Regulation uses the criteria for the labelling set out in the Globally Harmonised System of labelling which has been adopted at the international level. The new Directive 2013/10/EU updates the ADD to align its labelling references with the CLP requirements.

Rationale for intervention

3. We propose to implement the changes to the ADD by updating the Aerosol regulations. If the labelling requirements set out in the revision to the ADD are not implemented then UK business will be legally required to produce two different sets of safety labelling on their aerosol products. This would put UK business at a disadvantage to competitors in other Member States who have implemented, because costs would increase due to the additional colours required and the technical design difficulties of fitting extra information on already crowded information panels.
4. This is a non-controversial measure and was supported by the European aerosols trade associations and UK business.
5. The costs to the UK aerosol industry will be limited and will be transitional costs only. The CLP Regulation is already in force and in some cases the UK aerosol industry is already complying with its labelling provisions.
6. However, to allow adequate time for those UK manufacturers not yet complying with the CLP provisions, Directive 2013/10/EU allows that aerosols containing a single substance need not apply its labelling provisions until 19 June 2014. Similarly, aerosols containing mixtures need not comply with the new provisions until 1 June 2015. Additionally, such aerosols marked in accordance with the previous labelling regime and placed on the market before 1 June 2015 are not required to be re-labelled until 1 June 2017.

Policy Objective

7. The objective is to align the labelling requirements in the Aerosol Dispensers Regulations with modern international practice as set out in the new labelling requirements for aerosols brought in by the CLP Regulation.

8. This will ensure that aerosol dispensers carry the correct safety information to better protect consumers. Additionally it will remove legal uncertainty and confusion for business as to whether they should follow the labelling regime for aerosols in the ADD or that in the CLP Regulation.

Description of options

9. We considered two possible options:

Option 1 - revise the Aerosols Regulations - PREFERRED. This option would ensure that UK regulations are updated to reflect current labelling requirements and ensure that aerosols dispensers carry the correct safety information to better protect consumers.

Option 2 - non-regulatory approach. We considered a non-legislative approach of implementing by issuing Guidance and rejected this approach. This is because it would place UK business at a disadvantage. Industry would have to follow two slightly different labelling requirements – those in the unchanged ADD and those in the CLP Regulation which has direct effect in the UK. Having two labels on the product could potentially confuse the safety message for the consumer. Additionally it would result in the UK failing to meet its EU treaty obligations by not implementing a binding provision.

Monetised and non-monetised costs and benefits of options

Option 1 - revise the Aerosols Regulations - PREFERRED

Benefits:

10. The main benefits of implementing the directive and revising the aerosol regulations are to consumers from the simplified labelling, which should make aerosol labelling easier to understand. This could potentially lead to an increase in awareness of how best to handle, use and store aerosols and so may lead to a reduction in aerosol related accidents or injuries. It is not possible to quantify these benefits in this instance. UK industry pressed for this change to the ADD and want to see it implemented.

Costs:

11. In transposing the EU directive no gold plating has occurred. The UK regulations have been written so as to reflect the EU directive and there are no additional burdens or costs to UK businesses.

12. UK based companies fill about 10% of aerosols in the world and this equated to

1465 million units in 2012, according to the British Aerosol Manufacturers' Association (BAMA). BAMA also estimate that 65% of Aerosols filled in the UK are exported⁴.

⁴ BAMA Annual Report and Accounts 2012/2013

13. BIS asked BAMA to undertake an informal survey of the industry and their members to assess the costs of implementation. From the responses to the consultation it is clear that there will be some transitional costs to businesses.

14. Micro businesses are included in this option. The regulations ensure consumer safety and it is important that businesses of all size are committed to producing safe aerosol dispensers which carry clear safety information for the user.

15. The best estimate expects these transitional costs to be incurred over the first three years as follows: £2.1million, £2.6million, and £0.5 million. These are conservative estimates - further details of the cost to business of this approach are outlined below in the 'Direct costs to business section'.

Option 2 - non-regulatory approach

Benefits: nil

Costs:

16. If the labelling requirements set out in the revision to the ADD are not implemented by regulation but by a non-legislative approach such as a code of practice then UK business will be legally required to produce two different sets of safety labelling on their aerosol products – if they are to comply with the requirements in the ADD and those in the CLP regulation. This would put UK business at a disadvantage to competitors in other Member States who have implemented because costs would increase due to the additional colours required and the technical design difficulties of fitting extra information on already crowded information panels. This could potentially confuse the safety message for the consumer. It has not been possible to quantify these additional costs.

17. In addition, any voluntary approach would be overridden by the direct acting regulatory requirements in the European CLP Regulation. This option would also ignore the legal requirement for Member States to implement as set out in the amended Aerosols Directive. Article 3 (Transposition) of Directive 2013/10/EU require Member States to adopt and publish laws, regulations and administrative provisions necessary to comply with the Directive.

Rationale and evidence

18. The legal instrument to bring about the changes in labelling for aerosols products was the CLP Regulation which came into effect for substances from December 2010 and comes into effect for mixtures from 1 June 2015. The large majority of aerosols are mixtures but there are a few which are single substance eg lighter refills and air dusters.

19. Although it could be argued that the costs are therefore attributable to the CLP Regulation, industry has indicated that it planned to use the update in the aerosols legislation as the stimulus to begin implementation, which is why the costs are reflected here against the implementation of the revisions to the Aerosols Directive.

20. The overall transition costs are estimated at £5.2 million. We expect this to be a conservative estimate as some companies would have incurred some of these costs anyway as part of their product labelling lifecycle. These costs are very small (0.2%) compared to the scale of the industry activity – estimated UK annual revenue of £3 billion with 1.4 billion aerosols filled per year in the UK.



Risks and assumptions

21. We have assumed in the estimate of costs that the business response represents 13% of the UK industry which was an estimate provided by business. We have also assumed that the 13% of businesses who responded are representative of the rest of the industry. The costs are a conservative estimate because it is likely that some of these would have been absorbed by the industry in the normal product branding cycle.

Direct costs and benefits to business

22. The responses to the industry survey show that there will be some transitional costs to businesses. Industry responses indicated that aerosol labelling is usually updated every 18 months to 3 years and so the Aerosol directive will force companies to bring forward those plans in some instances. However as there has been a long period of notification on this directive we have considered that companies will have factored the legislative changes into their product cycles. The main costs to companies will be the new design and implementation of the updated labelling and the wastage of existing stock that does not conform to the new legislation.

23. The table below shows the labelling changes for aerosol dispensers containing a single substance:-

'Old' labelling under ADD/75/324/EEC Directive	New requirements under CLP Regulation (EC) No 1272/2008
	
	Danger
'Flammable' or 'Extremely Flammable'	'Flammable' or 'Extremely Flammable'
Pressurized container: protect from sunlight and do not expose to temperatures exceeding 50°C. Do not pierce or burn, even after use	Pressurised container: Do not pierce or burn, even after use. Protect from sunlight. Do not expose to temperatures exceeding 50°C/122°F
Keep away from sources of ignition – No smoking	Keep away from heat/sparks/open flames/hot surfaces – No smoking
Do not spray on a naked flame or any incandescent material	Do not spray on an open flame or other ignition source
Keep out of the reach of children	Keep out of reach of children

24. Although we have calculated a high, best and low estimate of total costs to business, it is likely that this entire range of costs to industry is a conservative estimate, as companies would have incurred some of these costs anyway as part of their product labelling lifecycle. However as it is not possible to identify exactly how many label updates will need to be brought forward in the period after the legislative implementation, we have presented total costs to business in full.

25. The government's informal survey received responses from four companies, who together represent 13% of the total aerosol industry in the UK. As most of the industry's stock is fast moving consumer goods and typical labelling cycles are 18 months to 3 years, industry has indicated that they expect 40% of the costs to fall in 2014, 50% of the costs to fall in 2015 and the remaining 10% to fall in 2016. Table 1 provides the industry data submitted in response to the Government consultation and our best estimate is given as the midpoint of the low and high totals. The figures in table 1 have not been discounted.

Table 1: responses from industry survey

Company	Proportion of Cost Falling Domestically	Lines	Cost per Line (Low)	Cost per Line (High)	Total Cost for Company (Low)	Total Cost for Company (High)
Company A	100%	500	£750	£750	£375,000	£375,000
Company B	77%	360	£500	£600	£138,600	£166,320
Company C	100%	121	£500	£500	£60,500	£60,500
Company D	95%	900	£70	£140	£59,850	£119,700
				Total cost for all companies	£633,950	£721,520

		Low	Medium	High	
Responses received proportion of total industry	13%	Total cost for industry	£4,876,538	£5,213,346	£5,550,154
		Total cost for industry - 2014	£1,950,615	£2,085,338	£2,220,062
		Total cost for industry - 2015	£2,438,269	£2,606,673	£2,775,077
		Total cost for industry - 2016	£487,654	£521,335	£555,015

Wider impacts

26. The proposal will not introduce any equality, environmental or social impacts.

27. Transitional costs may have a proportionally greater impact on smaller firms. However it is not possible to exempt micro-businesses or SMEs from the scope of the regulations without affecting essential safety protections for the consumer. The UK aerosol industry is dominated by around a dozen larger producers and of the remaining 60 or so companies, many are SMEs. The long lead-in time to the publication of the revision to the ADD and the guidance issued by the European Commission in 2011 recommending a move to CLP labelling requirements for single substances, should have helped the industry to prepare and to spread the transitional costs.

28. The revised regulations would be enforced by local authorities' trading standards departments who already enforce the 2009 Aerosol Dispenser Regulations. Any familiarisation costs will be minimal as they have been aware of the application of the CLP Regulations on other products since 2010.

Summary and preferred option

29. In summary we prefer to go with Option 1 and implement Directive 2013/10 and thereby revise the labelling requirements in the ADD to align them with the international labelling levels in the CLP regulation. This will leave one set of requirements in place for the labelling of aerosol dispensers.

30. This is a non-controversial measure, supported by UK business which was involved in the negotiation of the Directive. It has low costs relative to the large scale of the UK

industry and will remove legal confusion. In addition it is of potential benefit to the consumer by clarifying safety messages.

31. We would implement by bringing in secondary legislation to amend the UK Aerosol Dispensers Regulations 2009 and would propose to carry out a shortened consultation (4 weeks) with industry as they have already been closely involved with the development of the Directive for some years now and are already aware of its provisions and potential impacts. Our plan is notify stakeholders as soon as the consultation is published and we will consider any requests we receive for a longer consultation period.

Product Regulations Team
BIS European Reform Directorate
3 December 2013

© Crown copyright 2014

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. Visit www.nationalarchives.gov.uk/doc/open-government-licence, write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email psi@nationalarchives.gsi.gov.uk.

This publication is available from www.gov.uk/bis
Any enquiries regarding this publication should be sent to:

Department for Business, Innovation and Skills
1 Victoria Street
London SW1H 0ET
Tel: 020 7215 5000

If you require this publication in an alternative format, email enquiries@bis.gsi.gov.uk, or call 020 7215 5000.

BIS/14/584