



Department  
for Business  
Innovation & Skills

## EUROPEAN INTERNAL MARKET

**Government response document to  
the Department for Business,  
Innovation and Skills public  
consultation document on updating  
the labelling requirements in the  
aerosol dispensers regulations  
2009**

JANUARY 2015

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# 1. Executive Summary

1.1 This document forms the Government Response to the public consultation issued by the Department for Business, Innovation and Skills' public consultation on the draft Aerosol Dispensers (Amendment) Regulations 2014 ("draft Regulations").

1.2 The consultation set out the Government's position on the draft Regulations and asked a series of questions in order to get a better idea of its impact on business. The draft Regulations intended to amend the Aerosol Dispensers Regulations 2009 to update the references to labelling requirements.

1.3 The 2009 Regulations implemented the Aerosol Dispensers Directive 1975 (the ADD) which related to the safety of aerosol dispensers. Aerosol dispensers must carry labels to inform consumers of the hazards they present during use and storage. Mandatory labelling requirements in the ADD are now out of date as they refer to standards in other Directives, which have been expired and been replaced, with the Directives to be revoked by 1 June 2015.

1.4 The Aerosols Directive has been updated by Commission Directive 2013/10/EU of 19 March 2013. 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.

1.5 The main benefits of the legislative 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.

1.6 The consultation was 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.

1.7 The Department would like to thank all interested parties for taking the time to respond to the consultation. We have considered all your views very carefully. As a result of the responses, the impact assessment which accompanied the consultation was revised to take account of the responses which indicated a lower cost per product line than previously stated in the original impact assessment. The final impact assessment included these costs which are shown in the three new paragraphs at points 26 to 28.

1.8 The Regulations were laid in Parliament on 1 May 2014 and came into force on 19 June 2014. The statutory instrument was subsequently published on the gov.uk website.

1.9 The Regulations are enforced by local authorities' trading standards departments who enforced the previous 2009 Regulations. They have been aware of the application of the CLP Regulations on other products since 2010.

## 2. Background

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".

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).

2.3 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). 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. 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 at

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

2.4 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 e.g lighter refills and air dusters 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.

2.5 We carried out a careful analysis of the relevant domestic legislation to enforce the new changes. We have also worked closely with representatives of the UK aerosol industry at all stages in the development of the 2013 Directive.

2.6 As part of our consultation process, we also consulted small and medium size businesses who are involved in the UK aerosols industry which fall within the scope of the amending Directive.

### 3. The Regulations

3.1 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 changes 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)”

3.2 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.

3.3 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. 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”

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. Responses Received

4.1 The consultation document was published on the gov.uk website. The consultation posed eight questions about the draft Regulations which are listed below.

**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?

4.2 The consultation also asked whether respondents had any other comments that might aid the consultation process as a whole and included a regulatory impact assessment. A total of nine responses were received and they are broken down as follows:-

Large Business	2
Small Enterprise (10 to 49 staff)	2
Medium Business (50-250 staff)	2
Micro business (up to 9 staff)	1
Local Government	0
Central Government	1
Trade Association	1
Test House	0
Individual	0

## 5. Summary of Responses

5.1 The following analysis of the responses received to the consultation is focused on the questions posed in the consultation document. The Government responses to the points raised are set out following each question.

**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

5.2 There were nine responses to this question. One was from a trade association representing the aerosol industry, two from large companies, two were from medium sized companies, two from small businesses, and another from a micro-business. A Government Department also responded to this question. The trade association and Government Department fully supported the Government's proposals. Of the other respondents, one large company stated that there will be obsolete costs incurred due to the selling of product lines. They estimated the costs to be £200,000, which will fall 100% in 2016.

5.3 Another large company commented that there will be costs to re-originate artwork on all aerosol items, which a small amount can be mitigated by planned artwork changes, for other reasons. They estimated the costs to be 85% in 2014 and 15% in 2015.

5.4 One medium size business commented that they do foresee additional costs as a result of implementing the proposals. The minimum cost would be £95,000 for changes to product labels. They stated that the approximate yearly split is 10% for 2013, 60% in 2014 and 30% in 2015. Another medium sized business commented that the costs for reclassification and relabeling entire product will be spread approximately 75% in 2014 and 25% in 2015.

5.5 With regard to small businesses, one reported that the costs will fall between 2014-17. This will roughly be 25% in 2014, 40% in 2015, 20% in 2016 and 15% in 2017. The business stated that the transition period between 2015-17 for existing products will affect round 2000 client products. Another small business quoted their additional costs to be £15,000 in 2015. A micro-business reported that their international and UK clients will need to change the product labels of their aerosols so costs will be borne. They stated that the additional costs are £3,000 in 2014 and £1,000 in 2015.

### Government Response

5.6 We believe that the labelling requirements are practical. The main costs to business will be for new designs on aerosol dispensers such as those relating to artwork and updated labelling, and the wastage of existing stock that does not conform to the new legislation. Aerosols marked in accordance with a previous labelling regime and placed on the market before 1 June 2015 are, however, not required to be re-labelled until 1 June 2017.

5.7 The costs to the UK aerosol industry will be limited and transitional only. We are pleased that the responses to our consultation showed that costs to industry, including those for small and medium sized businesses, will fall by 2015 and 2016. The long period of notification on the EC Directive 2013/10/EC (which amended the Aerosol Dispensers Directive 1975) on labelling requirements would have helped the UK industry to prepare

and to spread the transitional cost. As mentioned in the Executive Summary, we have revised the impact assessment which accompanied the consultation to take account of the responses which indicated a lower cost per product line than previously stated in the original impact assessment. The final impact assessment includes these costs in the three new paragraphs at points 26 to 28.

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

5.8 There were seven responses to this question. Two from large companies, two were from medium sized companies, two from small businesses, and another from a micro-business. One large company stated that all their labelling is done domestically, whilst the other commented that 5% of their labelling for aerosol dispensers is conducted in the United Kingdom, with 95% labelled outside the UK. Of the two medium sized companies, one reported that 80% is domestic and 20% overseas, and the other is 10% domestic and overseas 90%. One small businesses quoted that 100% of their labelling takes place domestically, of which 10% goes overseas. The micro-business commented that 20% is done domestically and the remaining 80% is conducted internationally.

### **Government Response**

5.9 We note the comments received. It would appear that there is a more or less equal split between those companies who produce their labelling domestically and those that do so overseas.

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

5.10 There were seven responses to this question. Two from large companies, two were from medium sized companies, two from small businesses, and another from a micro-business. Two from large companies, two were from medium sized companies, two from small businesses, and another from a micro-business.

5.11 One large company stated that their labelling is finalised early in the product cycle, usually 6 months prior to production of the product. Another large company commented that as they manufacture for customers, their customer labelling requirements is finalised immediately before supplier orders are placed for the products. One medium sized company stated that for new products, labelling is finalised at the latter stages of the design phase, whilst the other commented that for new product printed aerosol cans, it is three months prior to its launch and labelled cans six weeks before launch.

5.12 One small business reported that for new products, labelling is finalised after sample approval. Labels take 2-3 weeks, whereas printed cans take 8-10 weeks. Another small business quoted that their labelling is finalised at the pre-production product stage. For the micro business, it is around three months into development.

### **Government Response**

5.13 We note the responses received. The stages of the product cycle when the label is finalised varies from an early stage, prior to production of the product, to when orders are placed for the product.

**Question 4:** How often do you update your labelling?

5.14 There were seven responses to this question. Two from large companies, two were from medium sized companies, two from small businesses, and another from a micro-



business. Two from large companies, two were from medium sized companies, two from small businesses, and another from a micro-business.

5.15 One large company stated that their labelling updates vary from product to product, but it is generally within a 12-24 month time frame. The other large company stated that they update their labelling alongside legislative changes. One medium sized company commented that they do so every 5-7 years. Other medium sized company said that they do not update their labelling for their current product. The two small businesses and the micro business also reported that they update their labelling when required by legislation.

### **Government Response**

5.16 We note the comments. The majority of the respondents reported that they update their labelling of aerosol dispensers when prompted by legislative changes. However some of the required changes would be incorporated into the usual product lifecycle of labelling and would not incur additional costs.

**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?

5.17 There were seven responses to this question. Two from large companies, two were from medium sized companies, two from small businesses, and another from a micro-business. Two from large companies, two were from medium sized companies, two from small businesses, and another from a micro-business.

5.18 One large company stated that all of their products are mixture aerosols. 450 product lines are affected by the CLP changes. The other large company stated that they are also deal with mixture aerosols and that their figure for product lines affected is 336. With regard to medium sized companies, one commented that 460 are affected by the CLP changes with a breakdown of 1% for single substances and 99% for mixture aerosol dispensers. The other that all their aerosol products are affected and the vast majority are mixtures.

5.19 One small business reported that they estimate that product lines, which are all mixtures, affected by the CLP changes are in the region of over 2,000. The other small business quoted a lesser figure of 80 aerosols mixtures being affected. The micro-business quoted that 8 product lines with different sizes are affected by the CLP changes. These are all mixtures.

### **Government Response**

5.20 We note the comments. From the responses received, the majority of product lines affected by the ADD changes are less than 500.

**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?

5.21 There were six responses to this question. One from a large company, two were from medium sized companies, two from small businesses, and another from a micro-business.

5.22 The large company stated that it is difficult to give such a cost as they do not know which products would have had labelling changes anyway as brands update the products over time. Of the two medium businesses, one reported that the cost is £206 per line, with

a breakdown of 1% single substance and 99% mixture aerosol dispensers. Although the other medium business did not provide a cost, they considered that significant costs would be involved to implement the changes. These costs include those relating to reclassification, artwork content and translations.

5.23 A small business commented that the minimum cost per product line is around £200. They added that the aerosols are mostly mixtures and less than 1% is single substance e.g. refrigerant gas spray. The other small business stated that their average cost of implementation is £150 per product, all of which are mixtures. The micro-business response quoted that it costs £500 to change the artwork and plate for their mixture aerosols.

### **Government Response**

5.24 We note that the cost per product line of implementing the changes varies from £150 to £206. This is a lower figure than we anticipated, which suggests that companies may have incurred costs anyway as part of their regular product lifecycles.

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

5.25 There were five responses to this question. Two were from medium sized companies, two from small businesses, and another from a micro-business. One medium sized business considered that this proposal would have a minimal impact on their business, although they caveat their response by adding that in a year of below budget sales these costs could impact profit targets. The other medium sized business commented that there would be an impact on their business because of the changes required by both the CLP Regulation and the new Government proposals which represent a huge demand on their resources and costs.

5.26 One small business stated that whilst the proposal increases labour costs, it is a managed problem because regulatory changes have been causing label revisions since symbol changes in 2010. One other small business stated that there will be an impact on their profits, although they did not say to what extent the impact would be, as they will have to absorb costs to remain competitive. However, a micro-business did not consider that the proposal will have a particular impact on their business as the labelling will be phased in but this has to be planned and executed to avoid disposing of unused packaging.

### **Government Response**

5.27 We recognise that the legislative changes may have a proportionally greater impact on smaller firms. Generally, the responses to the consultation did not suggest that the changes would have a significant impact on this sector. The long lead in time to the publication of the revision to the Aerosol Dispensers Directive 1975, 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 for transitional costs. We are satisfied that the legislation will not impose a disproportionate cost to small firms.

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

5.28 There were nine responses to this question. One was from a trade association representing the aerosol industry, two from large companies, two were from medium sized companies, two from small businesses, and another from a micro-business. A Government Department also responded to this question. The majority of the respondents supported the proposals. The overriding view of those who endorsed our proposals were that they are effective and proportionate.

5.29 Two respondents, a medium sized company and a small business, were critical of implementation of the CLP Regulation and transport labelling. A small business also criticised the proposals as being changes for changes sake, with a loss of clarity. They also added that there is no obvious differentiation between flammable and extremely flammable so would expect indifference due to perceived over classification. A micro business felt that the existing Regulations were adequate and that the new labelling proposals will cause queries from consumers.

### **Government Response**

5.30 We welcome the fact that the majority of the respondents supported the proposals and consider them to be effective and proportionate. This is a non-controversial measure, supported by UK business who were involved in the negotiation of the revise Directive. It has low costs relative to the large scale of the UK aerosol industry and will remove legal confusion. In addition it is of potential benefit to the consumer by clarifying safety messages.

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

5.31 There were two specific responses to this question from a large company and a small business. The large company put forward the view that the significant cost to the business for obsolete regulation could be further minimised to allow an increased sell-through period allowing for product that has a slower life cycle. The small business questioned the need for the proposals as there has been considerable global uniformity on symbols to date and therefore unnecessary to make changes.

### **Government Response**

5.32 We note the comments. We do not agree with the comments by a small business who questioned the need for the proposals as they are needed to meet our EU legislative obligations. The new labelling requirements 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 Aerosol Dispensers Directive 1975 or that in the CLP Regulation.

## **6. Contact details for further information on the Regulations**

6.1 The Regulations have been published on the Gov.uk website.  
Contact details for further information on the Regulation is :

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