

<b>Title:</b> Updating labelling requirements in the Aerosol Dispensers Regulations (EU Directive 2013/10/EU)  <b>IA No:</b> BIS EUD001  <b>Lead department or agency:</b> Department for Business, Innovation and Skills  <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>		
	<b>Date:</b> 19/03/2014		
	<b>Stage:</b> Final		
	<b>Source of intervention:</b> EU		
	<b>Type of measure:</b> Secondary legislation		
<b>Contact for enquiries:</b> Christine Knox 020 7215 3465			
<b>Summary: Intervention and Options</b>			<b>RPC Opinion:</b> RPC Opinion Status

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 NA
-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 The current labelling requirements of the Directive are now out of date as they refer to standards in other Directives which are due to be replaced and revoked by 1 June 2015.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 <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			Traded: N/A		Non-traded: N/A

***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.***

Signed by the responsible SELECT SIGNATORY: \_\_\_\_\_ Date: \_\_\_\_\_

# Summary: Analysis & Evidence

## Policy Option 1

### Description:

#### 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

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. It is not possible to do nothing as the UK has treaty obligations to implement the Directive:

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. 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 exported<sup>1</sup>.

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'.

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<sup>1</sup> BAMA Annual Report and Accounts 2012/2013

## 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 one-off and 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 survey 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
				<b>Total cost for all companies</b>	£633,950	£721,520

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

### Consultation responses

26. The government consultation received responses from 9 companies and of those 5 gave quantified costs, as outlined in table 2 below. This includes a breakdown of costs incurred by year and figures have not been discounted in table 2.

Table 2: responses to government consultation

	Proportion of Cost Falling Domestically	Lines	Cost per line	Total cost 2014	Total cost 2015	Total cost 2016
Company 1	100%	100	£150		£15,000	
Company 2	20%		£150	£3,000	£1,000	
Company 3	80%	460	£206	£66,500	£28,500	
Company 4	100%	450				£200,000
Company 5	100%	2000	£200	£100,000	£160,000	£140,000

27. However it is not possible to estimate what proportion of the total industry these responses represent and as such to impute the total cost to the Aerosol industry. Therefore we have not augmented our total cost to business and EANCB calculations.

28. The average total cost across these five companies in the consultation is £142,800 compared to an average midpoint of £169,000 from our initial company survey. In particular the cost per line from the consultation companies was often far lower than in our initial survey. This suggests that our initial estimates may represent a higher range of costs than is actually the case. When taken with the fact that companies may have incurred many of these costs anyway as part of their regular product lifecycles, our cost estimates can be considered a conservative estimate of the true cost of the regulatory change.

## **Wider impacts**

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

30. 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.

31. 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**

32. 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.

33. 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.

34. We would implement by bringing in secondary legislation to amend the UK Aerosol Dispensers Regulations 2009 and have undertaken 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.

Product Regulation team  
BIS European Reform Directorate  
20 March 2014

BIS/15/52