

## The Environmental Protection (Microbeads) (England) Regulations 2017

<b>Lead department</b>	Department for Environment, Food and Rural Affairs
<b>Summary of measure</b>	The Department is reviewing the 2017 regulations that were introduced to prohibit the manufacture and sale of 'rinse-off' cosmetics and personal care products containing microbeads.
<b>Submission type</b>	Post-implementation review
<b>Implementation date</b>	18th June 2017
<b>Department recommendation</b>	Keep
<b>RPC reference</b>	RPC-DEFRA-5291(1)
<b>Opinion type</b>	Formal
<b>Date of issue</b>	16 January 2024

### RPC opinion

Rating <sup>1</sup>	RPC opinion
<b>Fit for purpose</b>	<p>As originally submitted, the PIR was not fit for purpose; the RPC found that the PIR did not clearly set out level of evidence to proportionately support the recommendation. The Department had not provided sufficient justification of why there are the large gaps in the evidence base. The RPC now considers the post-implementation review (PIR) to be fit for purpose. The recommendation to keep the ban is now supported by proportionate evidence and analysis given the relatively low-level of estimated impacts of the measure. The PIR provides a relatively light-touch assessment of impacts on business and achievement of policy objectives, although this draws upon, for example, survey evidence. The assessment is reasonable overall and sufficient to support the recommendation, although the PIR could have been improved by more robust monitoring and evaluation.</p>

<sup>1</sup> The RPC opinion rating is based on whether the evidence in the PIR is sufficiently robust, as set out in the better regulation framework, to support the departmental recommendation. RPC ratings are fit for purpose or not fit for purpose.

## RPC summary

Category	Quality <sup>2</sup>	RPC comments
Recommendation	<b>Green</b>	The Department states that there is still a need for the ban to remain in place and has provided evidence to underpin this recommendation. The recommendation is supported by a level of evidence and analysis that is reasonable and proportionate to the scale of impacts quantified in the original IA.
Monitoring and implementation	<b>Satisfactory</b>	The PIR uses surveys and mainly qualitative evidence. Although the review would have been improved by quantitative environmental data, the PIR does provide satisfactory evidence on the presence of microbeads in rinse-off personal care products sold on the market in England as an appropriate proxy. Responses to the surveys indicate that the ban has been successful in removing microbeads from products sold, although the PIR would have been improved by including providing more detail on the survey questions, and the actual data received.
Evaluation	<b>Satisfactory</b>	The review clearly sets out the original objectives of the policy, acknowledging that the original objectives were high level. The Department suggests that 'rinse-off' personal care products containing microbeads no longer being manufactured or sold in England is the best indicator of success but could have been more explicit on the comparison and movement from the original objectives. The PIR could also benefit from extending the range of unintended consequences, considering any further unintended impacts on the consumer market or industry. The Department has usefully reviewed the original assumptions in the IA and discussed challenges.

<sup>2</sup> The RPC quality ratings are used to indicate the quality and robustness of the evidence used to support different analytical areas. The definitions of the RPC quality ratings can be accessed [here](#).

## Response to initial review

As originally submitted, the PIR was not fit for purpose for the following reasons:

1. The level of evidence provided in the PIR did not appear to proportionately support the recommendation and the Department had not been able to quantify any reduction of microbeads. Despite the measure being low impact, the Department needed to provide more evidential explanation to support the success of the ban and assess the extent to which the policy had achieved its objectives.
2. The PIR should have provided further justification of why there are the large gaps in evidence and included a more detailed critical review of the coverage and quality of evidence available.

A number of changes have been made to address the points made in the IRN:

1. The Department has updated the PIR with more detail from the surveys and follow-ups with key retailers to better reflect a more robust evidence base and case for the ban being successful in removing microbeads from rinse off personal care products currently on the market.
2. The Department has taken steps to improve how they are reflecting what evidence they have and extended their searches of the scientific and grey literature. The Department provided further description of their survey methodology and our research methodology which included a rapid evidence review of which 100 scientific papers were reviewed for relevance to the ban.
3. The Department has used the presence of products on sale as the better approach for measuring effectiveness of the legislation in comparison to environmental monitoring due to the challenges that arise from identifying the origins of microbeads in the environment and considers this an appropriate proxy.

## Summary of proposal

The 2017 regulations were introduced to prohibit the manufacture and sale of 'rinse-off' cosmetics and personal care products containing microbeads. In the review, the Department describes the original objectives of the regulations as being to:

- Protect the environment and food supply from further pollution from microbeads.
- Foster consumer confidence that the products they buy will not contain plastic microbeads which can harm the environment and
- support the cosmetics industry by setting a level playing field while ensuring a suitable timescale for implementation to minimise impact on the industry.

The measure was also intended to set an example for other countries and encourage wider adoption of this type of legislation to regulate plastic pollution from microbeads. The original quantified impacts of the measure were small, estimating an annual net cost of £0.5m over a 10-year period. The Department recommends keeping the regulations.

## Recommendation

The Department states that there is still a need for the ban to remain in place and has provided evidence to underpin this recommendation; for example, referencing the continued scientific evidence of the damage microplastics have on the environment, which supports the relevance of the regulation's original objectives. The Department also references the estimates in the original impact assessment to support keeping the ban, stating that without the regulation, a small proportion of toothpaste and imported products would continue to contain microbeads, as well as 8 per cent of face care products.

Although the Department faced limitations in the monitoring data available, the recommendation to keep the regulation is supported by a level of evidence and analysis, albeit mainly qualitative, that is reasonable and proportionate to the scale of impacts quantified in the original IA. This is explained further below. Furthermore, the Department thoroughly discusses the limitations relating to the monitoring data (it is not currently possible to identify the products of origin for microbeads identified in the environment) and subsequently chooses to use the presence of microbeads in rinse-off personal care products sold in England as an indicator of the effectiveness of the ban, for which there is evidence in support of.

The Department also supports the recommendation by considering the position before the legislation began. Whilst more than 72 per cent of businesses already took voluntary action to remove microbeads prior to the ban, the PIR explains that the legislation is still needed to implement a universal approach (as highlighted by the Environmental Audit Committee) and to set science-based definitions that create a level playing field, as evidenced by the fact that Australia also implemented state level bans following a voluntary industry phase-out.

## Monitoring and implementation

### Evidence to support recommendation

The Department relies on surveys and the qualitative evidence from the responses to inform the PIR, as well as a review of scientific publications. A lack of environmental monitoring means comprehensive data on the cost to industry is not available and it is not currently possible to evidence any reduction of microbeads in the environment. Although the review would have been improved by quantitative environmental data, the PIR does provide satisfactory evidence on the presence of microbeads in rinse-off personal care products sold on the market in England. In the absence of other data, this evidence on the lack of microbead ingredients included in available products is considered to be a reasonable proxy.

The Department commissioned surveys to a range of stakeholders and received survey evidence from businesses and NGOs. Industry feedback and retailer statements in the surveys indicate that the ban has been successful in removing microbeads from rinse-off personal care products (as supported by spot-checks), although the PIR would have been improved by including more detail on the survey

questions, metrics, and the actual qualitative and quantitative data received. The Department could also have provided more detail on those that were consulted and responded to the survey (e.g. how representative they were of the industry).

The Department also conducted further engagement with the stakeholders who responded to the survey and has undertaken a literature review, which included looking at scientific publications and briefly discussing microbeads legislations in other countries. The PIR acknowledges that the EU's legislation on microbeads covers a broader range of intentionally added microplastics and discusses the future evidence project that DEFRA is commissioning to better understand what the most effective measures may be to tackle products beyond the scope of the 2018 ban in England. The PIR would benefit from providing further detail on how this future evidence base will be sourced and how it might incorporate any lessons learned from the evidence shortfalls faced in this review.

## Monitoring

The PIR states that although Trading Standards authorities enforce the regulations, they take an intelligence-led approach to enforcement for all its duties. This means work will be based on complaints or other intelligence to suggest breaches, rather than routine surveillance or testing, and reduces the level of evidence available.

## Proportionality

The measure was originally estimated to have an EANDCB well below the better regulation framework's current *de minimis* threshold of £5 million and the PIR's evidence and analysis is consistent with the indicators presented in the RPC's proportionality guidance for a PIR for a low impact measure. The PIR provides a relatively light-touch assessment of actual impacts on business and statements on whether the measure has met its objectives. In the absence of robust quantitative evidence, this is reasonable. Furthermore, the PIR has been able to identify some of the shortfalls of the data available and evidence gaps.

## Evaluation

### Consideration of policy objectives

The review clearly sets out the original objectives of the policy. As it was not possible to monitor the ban, the effectiveness of its implementation and the extent to which the policy has achieved its objectives is limited. In response to this, the PIR acknowledges that the original objectives were high level and provides discussion of refined objectives around 'rinse-off' personal care products containing microbeads being no longer manufactured or sold in England by 30th June 2018. This objective is more SMART (i.e. specific, measurable, achievable, realistic and timely) and the Department states that this is the best indicator of success, showing that it has been achieved throughout the PIR. As this appears to be a new policy objective based on the ban itself coming into effect rather than the original overall welfare objectives, the PIR could have been more explicit on the movement of objectives, as well as comparing the original objectives and justifying the difference.

### **Unintended consequences**

The Department states that no unintended consequences were identified. However, the PIR could benefit from extending the range of unintended consequences, considering any further unintended impacts on the consumer market or industry, particularly as the review identifies that consumer prices did not increase as expected.

### **Original assumptions**

The review has attempted to revisit cost estimates from the original impact assessment, using qualitative survey data, and clearly presents the different cost types against new evidence. This level of assessment is proportionate to the original impacts quantified, and the Department has usefully discussed the challenges to the original assumptions (such as the recorded increase in reformulation and relabelling costs, and different substitution effects) and how these affect the regulation and its impacts.

### **Impact on small and micro businesses**

The PIR does not consider the impact on SMBs, but states that due to the limited scope of the ban (and relatively low-level of estimated impacts of the measure) as well as voluntary action by many businesses prior to the ban the cost to businesses were overall small. This suggests that SMBs were not disproportionately impacted by the ban, but the PIR could have been improved significantly by including SMBs in their surveys rather than relying on trade associations.

### **Regulatory Policy Committee**

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