

**THE COSMETIC PRODUCTS  
(SAFETY) (AMENDMENT) (NO 2)  
REGULATIONS 2007**

Impact assessment

AUGUST 2007

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# Regulatory Impact Assessment

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## The Cosmetic Products (Safety) (Amendment) (No 2) Regulations 2007

### Proposal

To transpose Commission Directives 2007/1/EC and 2007/17/EC into UK Law.

### Purpose and intended effect of measure

#### *Objective*

The primary aim of the Cosmetic Products (Safety) Regulations 2004 (as amended) is to protect public health by requiring cosmetic products to meet the provisions of the Regulations, including restricting the use of certain cosmetic ingredients.

Commission Directive 2007/1/EC forms part of the strategy on hair dyes to ensure that only safe substances are used in finished hair dye products. Therefore 10 substances, numbered 1234-1243 are added to the list of banned ingredients in Annex II.

Commission Directive 2007/17/EC amends Annex VI changing the restrictions on the use and concentrations of certain substances for purposes other than preservatives and Part 1 of Annex III allows the conditions for use of certain substances for purposes other than as preservatives.

### ***Risk Assessment***

#### Options

Option (i): to fully implement the provisions of the proposed Directive, if adopted.

Option (ii): to request industry to adopt voluntary measures

Option (iii): to do nothing

Option (i) is the recommended option. The proposed Directive is consistent with UK policy and practice on these issues. It guarantees a high level of consumer safety, restricting the use of ingredients.

Option (ii) under the Cosmetics Directive, substances used as ingredients in cosmetic products are subject to approval by the Scientific Committee. Those not allowed or allowed with restrictions are in a

positive schedule. Voluntary measures would not guarantee knowledge of the restrictions on use of the ingredients.

Option (iii) would not make the information available. This could possibly mislead manufacturers and consumers as to the safety of these particular ingredients.

### **Cost/Benefit Analysis**

#### **Economic**

Directive 2007/1/EC bans the use of 10 substances as hair dyes, whose approval by the Scientific Committee for Consumer Products is not being sought by the cosmetics industry because they are not in use in finished hair colouring products marketed in the EU. There will, therefore be a neutral economic impact on UK manufacturers and consumers as the ingredients are not available in products sold to the general public. The economic impact of this Directive is neutral.

Directive 2007/17/EC may require some manufacturers using the substances that have their restrictions changed to engage in reformulation and re-labelling of their products. However consumer use of these products is not widespread and any increase in costs for consumers in general is likely to be marginal.

However, we had limited information on the potential market impact, particularly of Directive 2007/17/EC and we asked consultees to provide further information. We received two responses to the consultation: from the UK trade association, the Cosmetics, Toiletries and Perfumery Association (CTPA), which represents 85% of UK manufacturers of cosmetic products and Trading Standards South East. Neither indicated that the Directive would have a major impact on manufacturers, importers, wholesalers and retailers of finished cosmetic products of ingredients of cosmetic products.

Both Directives will apply in all Member States of the EU and the countries that are members of the EEA.

#### **Environmental**

No specific benefits to the environment have been identified.

#### **Social**

The Directives, if adopted, will improve consumer protection. The hair dyes strategy is aimed at assessing all substances that can be used in hair dyes and banning from use those that are identified as being potentially carcinogenic.

The Directive on preservatives is based on opinions of the Scientific Committee on the safe levels for usage of substances allowed as preservatives that can be used for other purposes. These additional restrictions improve consumer safety.

### **Costs**

The cosmetics industry is truly international, which can be seen from the flow of trade. There are approximately 150 companies in the UK involved in the manufacture/importing of cosmetic products. The UK cosmetics market was worth £6.4 billion at retail prices in 2005, of which approx 51% is manufactured in the UK. In 2005, 47% of cosmetics manufactured in the UK were exported: 33% to the rest of the EU and 17% abroad. For imported cosmetics, 71% is imported from the EU and 29% from outside the EU.

The proposed ban for 10 hair dyes is for substances that are not currently used by manufacturers. The ban will not impose additional costs in the composition of hair dyes made in the UK. Similarly, there would be no additional costs for consumers.

The use of preservatives for non preservative purposes is not widespread in cosmetics. They are only used in a few specific types of cosmetic, such as: rinse off skin treatments and self tanning products. Given the particular nature of their usage, one of the purposes of the consultation was to establish the exact impact of the Directive on the costs of the manufacturers of these products. No additional information on this matter was gained as a result of the public consultation.

The consultation on this proposal asked business to comment on the likely extent of this burden and for suggestions for regulatory off-setting of any additional administrative burden. No information on this matter was gained as a result of the public consultation.

### **Equity & Fairness**

The overriding consideration of the Directive is the safety of consumers. The Directive will impact equally across the particular sectors of industry affected and will be implemented in all Member States.

### **Consultation with small business: the Small Firms Impact Test**

On the advice of the Small Business Service, stage one of the Small Firms Impact Test was carried out by contacting small businesses and the industry trade association. We were unable to identify any disproportionate impact on small firms as a result of this proposal. Nevertheless, if during the proposed consultation we identify impacts or

unintended consequences of the proposal on small firms, further work to assess this impact will be undertaken and the position reviewed.

## **Competition Assessment**

Stage One of the Competition Assessment was undertaken. When applying the Competition Assessment filter, the results indicated that, as the proposed Directive would not introduce any new restrictions, it is unlikely to have the effect of distorting or removing competition in the market. The Directives, if adopted, would not serve as a barrier to entry for potential entrants nor impose substantially more cost on some firms than others.

## **Enforcement & Sanctions**

The Cosmetic Products (Safety) Regulations 2004, which are amended by these Regulations, are enforced by local authorities' trading standards departments. It is the responsibility of the manufacturers of cosmetic products made in the EU or importers of finished cosmetic products to ensure that products comply with the Regulations.

## **Consultation**

### **Within Government**

The relevant interested department, the Department of Health was consulted about these proposals during the consultation exercise.

### **Public Consultation**

BERR conducted a full 12 week consultation, from May 15 to August 3 2007, for the implementation of the Cosmetic Products (Safety) (Amendment) (No 2) Regulations 2007, contacting key stakeholders such as the Cosmetics, Toiletries and Perfumery Association and those who have responded to consultations to previous amendments to the Cosmetic Regulations and publishing the consultation on the BERR website.

## **Summary & Recommendation**

Our recommendation is that the option chosen offers the best level of public health protection by making the Regulations.

Our legal obligations under the Treaty of Rome compel us to implement this Directive into UK law.

**Declaration:**

**I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.**

**Signed by the Minister responsible**

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**(Parliamentary Under Secretary of State for Trade & Consumer Affairs,  
Department for Business, Enterprise & Regulatory Reform)**

**Date**