

**ANALYSIS OF RESPONSES TO  
THE 17 MARCH –9 JUNE 2006 CONSULTATION ON PROPOSALS FOR  
THE BIOCIDAL PRODUCTS (AMENDMENT) REGULATIONS 2006**

Number of Consultative Documents sent: 2340 approx.

Number returned undelivered: 94 (4%)

Number of responses received: 29 (1.2%)

Of which, NIL responses: 13 (44.8% of responses)

Substantive responses: 16 (53.2%)

Of 29 responses, number from companies = 20; OGD = 2; Industry associations = 5; individuals = 1; TUs = 1

Analysis of responses for each question:

**Q1. Do you agree that the proposed amendments brought about by regulations 3(e), 4(a), 5, 6, 7, 9(a)-(b), 11(a)(ii), (b) and (c), 12(a)(ii), (b) and (c), 13, 14(a)(b) and (d), 15 (a), (b) and (d)-(f), and 17 are the best way to address the issues raised by the European Commission and set out in paragraphs 26-32 and 34? If not, please provide details, including suggestions for another way of doing this.**

17 responses were either NIL response, not answered or ticked the 'Yes' box.

Four (4) responses (Sorex, Unilever, Defra, Aromatherapy Trade Council - ATC) answered 'Yes' (or did not raise any objections) but had additional comments/questions.

Five (5) (ECOSpray, Arch UK, Chemical industries Association - CIA, BASF, Belmay Fragrances) opposed/strongly opposed the data protection proposals (regs 14 & 15). All 5 used similar arguments, and some requested the proposals on data protection be removed from the draft Regulations. A typical response was that the proposals appeared to be based on the Commission's General Note on Data Protection, which is a guidance document only; that there had been much debate in Europe and Industry was not in agreement with this guidance; the document had no legal standing, and that it therefore seemed premature to introduce legal measures in the UK at this time. They thought it more appropriate to first seek a sound legal basis at the EU level before introducing specific legal instruments in UK legislation.

One (1) (British Association of Chemical Specialities - BACS) opposed the proposal for dealing with Provisional Authorisations (regs 11 & 12), questioning whether the option to refuse PA authorisations based on another active substance that presents 'significantly less risk', was a correct expression of the Directive's Article 10, which they pointed out requires an assessment that includes 'economic and practical disadvantages for the user' as well as risk when judging refusal or removal of an active substance, and proposing that the 2001 Regulations be amended to include this definition.

Two (2) (ECOSpray, Belmay) thought that the 10-years data protection period was not long enough to enable data holders to recoup their costs.

**Q2. Do you have any comments on the financial implications for companies of activating with immediate effect the requirement at regulation 33 relating to advertising? The amendment will mean that anyone advertising a biocidal product from the date these regulations come into force must ensure that the advertisement contains the phrases “Use biocides safely.” (alternatively, ‘biocides’ can be replaced with the product-type), and “Always read the label and product information before use.”; does not contain any misleading information on the risks of using the product; and does not contain the phrases “low-risk biocidal product”, “non-toxic”, “harmless” or similar.**

16 responses said they had no comments or did not answer the question.

10 responses provided comments, of which 7 (Sorex, CIA, UKCPI, Rivendell, BACS, Evans Vanodine, Unilever) were specifically about the financial implications. Most sought further clarification on what the term ‘advertisement’ covered, and either deferred further comment pending such clarification, or responded that, if it covered labelling and packaging (it does not) this would have major financial implications. On this basis they requested deferral of the implementation date for this provision or proposed a ‘soft’ approach to enforcement.

One (1) (ECOSpray) was an observation on enforceability, and 2 (Murley Venture Consultancy, Belmay) were questions rather than comments.

**Q3. Do you agree with the proposal in paragraph 38 for dealing with the new Annex VII to RR2? If not, please provide details, including suggestions for an alternative solution. You are also welcome to comment if you do agree with the proposal.**

27 responses said they agreed with the proposals or did not comment. 1 response (Sorex) thought that Annex VII was already 3 years out of date and the situation for some substances had since changed, and so urged discretion in citing it.

**Q4. Do you agree that the proposals in paragraph 39(a) for dealing with non-identified active substances and in paragraph 39(b) for dealing with identified-only active substances are the most appropriate ways to address the issues; and that the alternative methods considered were not appropriate for the reasons set out? If not, please provide details.**

24 responses agreed with the proposals or made no comment.

Two (2) disagreed. One (1) (UKCPI) disagreed that identified active substances should be treated as though they had been evaluated and a recommendation for non-inclusion on Annex I had been made, because they were unclear how such substances would be considered in the future, asking whether a company could later pursue authorisation of a biocidal product. The second (ATC) strongly opposed any proposals to remove essential oils from the market as biocidal products. Because they were well-established products with a strong and loyal consumer base, they urged that such products should be given essential use status and registered under a simplified registration process.

One (1) (Murley) commented that the whole area was convoluted and not easily understood by the industry or the public.

**Q5. Do you agree that the proposed amendments to schedule 13, set out in paragraph 45(a) will ensure consistency? If not, please give details.**

28 responses agreed with the proposals or made no comment. There were no objections.

**Other**

1 response did not comment at all on the proposals but questioned the whole premise of the Directive. This is outwith the scope of the consultation and, along with other comments not related to the consultation, has not been analysed.

3 respondees requested confidentiality. 1 late response was received but it was a nil response. This has not been included in the analysis.

All five (5) responses giving a rating to the conduct of the consultation rated it as having been well conducted. One response (DanGoods Training and Consultancy) commented further on the conduct of the consultation, making suggestions about improving the title, including coming-into-force dates, some of the abbreviations used, and berating the fact that NI had to go through its own legislative procedure.