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COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

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Subject: COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE EVALUATION of the Aerosol
Dispensers Directive

Delegations will find attached document SWD(2018) 267 final.

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COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE EVALUATION
of the Aerosol Dispensers Directive

{SWD(2018) 266 final}

EXECUTIVE SUMMARY

The Aerosol Dispensers Directive (75/324/EEC) sets forth rules guaranteeing the safety and free movement of aerosol dispensers on the EU market. It aims to ensure that products within its scope are safe for consumers and other users by harmonising detailed safety requirements with respect to hazards related to pressure and where appropriate flammability and inhalation. It also aims to secure the free movement of aerosol dispensers throughout the EU. Member States must allow the marketing of compliant products on their territory and are not allowed to hinder cross-border trade.

The Directive has been in place since 1975. Over the years, it has been amended several times to address technological developments in the market. The Directive provides for a "technical adaptation procedure" to do this. Aside from these technical changes, the Directive has never been revised or replaced. The main reason for this is that stakeholders have not encountered major problems related to its functioning. Recently and in the context of requests to adapt the Directive to technical progress, the Commission services considered it necessary to conduct an evaluation.

The evaluation covers the performance of the Directive in the period 2005 to 2015 in all Member States. It assesses the relevance, effectiveness, efficiency, coherence and EU added-value in order to verify whether it meets its objectives and provides the mechanisms to deal with future changes in the business environment.

The main conclusion of the evaluation is that the Directive is functioning well and is contributing positively to its main objectives of guaranteeing the safety of aerosol dispensers while ensuring the free movement on the EU market. The directive is considered relevant and coherent with other legislation applying to the products.

The evaluation is mainly based on qualitative data received via the stakeholder consultations and desk research. The reliability and robustness of the data collected and used in the analysis is considered satisfactory by the Commission services given the number of interviews conducted with national authorities and economic operators, the good response rate of the targeted online survey, the detailed input of the companies contributing to the cost assessment and the number of consumer replies in the online public consultation.

The Directive is still **relevant**. The objectives correspond to the needs of consumers and economic operators and require no change. Most stakeholders also consider the Directive is up-to-date with technological progress and provides a flexible framework that allows innovation as long as safety requirements are respected.

The Directive has been **effective** in ensuring its objectives:

- The safety of aerosol dispensers is very high. This result is achieved because of the maturity of the production technology, the rigorous requirements in the Directive and the quality control by the economic operators, which are very sensitive to reputational

damage in case faulty products would reach the consumer. The Directive is setting strict criteria to ascertain that products on the market, including imported ones, are safe. This good performance is also reflected in the limited allocation of resources for market surveillance by the national authorities. Consumer organisations' feedback also allows to concluding that there are no safety problems with aerosol dispensers.

- The Directive has made a significant contribution to the internal market by harmonising rules and requirements in the EU. The vast majority of stakeholders agree that the Directive has achieved the objective of free movement and have not encountered problems when placing aerosol dispensers on the EU market. Economic operators confirmed that they could easily do business in different Member States because their aerosol dispensers only have to comply with one harmonised set of rules across the whole EU market.

Some remarks should be made concerning the analysis of the effectiveness and relevance:

- Some economic operators consider that the current limit for the capacity of plastic aerosol dispensers is no longer justified because, in their view, the safety of plastic aerosol dispensers with higher capacity can also be guaranteed. The concerned industries have test results as supporting evidence. This particular issue is already under review by the Commission services.
- Although the alignment of the Directive to the New Legislative Framework (NLF) could improve clarity and consistency of some provisions, all stakeholders agree that the current situation does not justify a long and costly procedure to revise the entire Directive. The current provisions of the Directive, including the procedure for adaptation to technical progress are adequate.

The Directive is **efficient**. Based on the result of the stakeholder consultation, it can be concluded that the costs related to the Directive are proportionate to the benefits.

- Although quantitative data was limited, stakeholders provided basic estimations, which demonstrate that the costs for economic operators directly attributable to the Directive are very low.
- The costs for national authorities are also very low. Aside from the transposition of amendments into national law, little time and effort is spent on it. Given the very low level of problems with aerosol dispensers, there are no dedicated resources for market surveillance in the Member States for these products.
- administrative burden is low and no potential for simplification has been detected

The Directive is **coherent** with other legislation applicable to aerosol dispensers, for example related to transport of dangerous goods, storage, pre-packaging and labelling, waste and recycling. no overlap or inconsistency have been identified.

Lastly, the **EU added value** was acknowledged by all stakeholders. Intra-EU trade would not be as easy with national – possibly diverging - requirements in place. In addition, the requirements of the Aerosol Dispensers Directive have also been adopted in the legal framework of several large third countries which facilitates the export and increases the competitiveness of the European industry on the global market.

The overall conclusion is that the Aerosol Dispensers Directive is functioning well. No substantial problems that require changes to the legislation were identified. The large majority of stakeholders (national authorities, economic operators and consumers) are satisfied with the current situation. The provisions and requirements of the Directive are clear to all and sufficiently flexible to allow innovation and technological development.