



Department  
for Business  
Innovation & Skills

2382/14

26 MAY 2015

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BIS Ref: REG28/S\_P\_Myers  
Your Ref: JRLH.LB.2382/14

11 May 2015

Dear Dr Hamilton,

**REGULATION 28 REPORT TO PREVENT FUTURE DEATHS Re: Stephen Paul Myers,  
deceased**

I have received your Regulation 28 Report to Prevent Future Deaths dated 21 April 2015 following your investigation and inquest into the death of Stephen Paul Myers, aged 49 years having drunk a bottle of poppers "isopropyl nitrite". May I first say how sorry I was to hear of this tragic incident, and if you have the opportunity would you please convey my deepest sympathies to his family.

You have suggested that action could be taken by this Department in order to ensure clear labelling of products like poppers in an attempt to avoid repetitions of this tragic accident. I should clarify that BIS is not responsible for the CHIP/CLP legislation regarding the labelling of bottles of Poppers (isopropyl nitrite). This is the policy of the Health and Safety Executive. The CLP labelling on this product would depend on the concentration of isopropyl nitrite and the nature and concentration of other ingredients, and follows prescribed 'rules' set under EU single market legislation. Whether or not certain label statements such as 'If swallowed: Immediately call a Poison Centre or doctor/physician' are used depends on the classification of the product, which is based on scientific data. CLP prescribes hazard classification, labelling and packaging, and there are no provisions in CLP that restrict supply to the public.



The appropriate body with the power to enforce the requirements of CHIP/CLP in the case of the labelling and other requirements of these products is the local Trading Standards Authority, in this case, Darlington. The local authority Trading Standards Service will investigate whether the product was mis-labelled in accordance with CHIP/CLP legislation and decide on an appropriate course of action. We are sending them a copy of your report and recommendations.

All products intended for use by consumers are regulated under the General Product Safety Regulations (GPSR) 2005 which implements the EU's General Product Safety Directive (GPSD). This Department has responsibility for this legislation. A producer must not supply a consumer product unless it satisfies the requirement that the product is safe (regulation 5 of the General Product Safety Regulations 2005). However it appears that the instructions for use were not followed in this case. The requirement that it should be safe for its intended use would not have been breached in this case.

The Home Office has responsibility for implementing the cross-Government Drug Strategy which includes tackling new psychoactive substances (NPS), or so called "legal highs". The Home Office continues to take action to clamp down on the trade in NPS which has claimed the lives of too many young people. To protect the public from harm, they have controlled more than 500 of these substances in the past five years, created the Forensic Early Warning System to identify NPS in the UK and supported law enforcement action with the latest intelligence on new substances.

The Home Office has also published guidance which encourages local authorities and police forces to consider all available avenues to address supply in our communities. This includes using provisions in the Intoxicating Substances Supply Act 1985 which makes it an offence to supply a minor with a substance that may be inhaled (includes smoking) for the purpose of intoxication. These, and other powers, have enabled local authorities to take legal action against head shops, seize stocks and stop the consumption of these dangerous substances. The guidance for local authorities can be found at <https://www.gov.uk/government/publications/action-against-head-shops>.

Yours