

**Engagement and Policy
Division**

Mr Ian Potter
HM Assistant Coroner
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Tuesday, October 8th 2024

Your Reference: [REDACTED]

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Dear Mr Ian Potter,

Thank you for your Regulation 28 report in relation to the death of Elizabeth Van Der-Drift, dated August 13th 2024. Your report was addressed to the Secretary of State for Health and Social Care and to the Office for Product Safety and Standards, but the report was transferred to the Health and Safety Executive (HSE) from the Department of Health and Social Care. This was because your concerns touch on areas for which we have policy responsibility in respect of the classification, labelling and packaging of hazardous substances and mixtures (chemicals). I am aware that the Office of Product Safety and Standards (OPSS) will provide a separate response.

In considering this matter HSE has engaged with the relevant industry association (the UK Cleaning Products Industry Association, UKCPI) and officials from the Department for Environment, Food and Rural Affairs (Defra), who have policy responsibility for the Detergents Regulations.

Before I address your concerns, may I take this opportunity to express my condolences to the family and friends of Ms Van Der-Drift regarding the tragic circumstances that gave rise to the report.

Your report highlights the following areas of concern for which HSE has responsibility:

- (i) laundry tablets/pods and their packaging are being produced in a way that, by virtue of their bright colouring, appearance, and packaging, they are being confused with food by people living with dementia or other cognitive impairment; and
- (ii) there is no obvious design feature, in terms of the packaging, that makes accessing the content particularly difficult for someone with even the most basic of manual dexterity.

This response identifies the relevant regulatory provisions in the assimilated Regulation (EC) No.1272/2008 on the classification, labelling and packaging of substances and mixtures ('the GB CLP Regulation'), with respect to the packaging of laundry tablets/pods for consumers (liquid consumer laundry detergents in soluble packaging for single use). The specific provisions, including guidance, are also set out in an Annex in this document.

I hope this information addresses your concerns and reassures you as to the existing regulatory provisions that are in place on the design and safety features of the packaging of laundry tablets/pods for consumers.

Laundry tablets/pods and their packaging

In 2015, a change was made to legislation to address concerns that laundry tablets/pods, and their packaging, were being produced in a way that makes them attractive by virtue of their bright colouring, appearance, and packaging. Additional safety measures were implemented for liquid consumer laundry detergents in soluble packaging to ensure better protection of the general public, especially children but also to protect other vulnerable groups, for example, those with learning disabilities or those living with dementia or other cognitive impairment.

This regulatory response was initiated to take action in response to a number of severe incidents of poisoning and eye damage involving children and other vulnerable groups, caused by liquid consumer laundry detergents in soluble packaging for single use.

According to Article 35(2) of the GB CLP Regulation, the supplier is responsible for taking all necessary steps to make sure that the design of the packaging is not attractive to children arouse their curiosity or to mislead consumers; the presentation of the packaging must not be a design used for foodstuff.

Design features of consumer laundry detergent packaging

Article 35(2) and section 3.3 of Annex II to the GB CLP Regulation set out the detailed legal requirements on the design of the packaging and the labelling of liquid consumer laundry detergents in dosages for single use contained in a soluble packaging.

Design features to ensure packing does not arouse the activity curiosity of children or other vulnerable groups to protect them include:

- making this type of product less visible by using opaque outer packaging;
- including an aversive agent (such as a bittering agent) in the soluble packaging to cause an immediate repulsive effect when in contact with the mouth; and
- rendering access to this type of product more difficult by making the soluble packaging more physically resistant (mechanical resistance and water dissolution).

Supplemental information is also highlighted on the label of the outer packaging of liquid consumer laundry detergents in soluble packaging for single use.

Matters of concern and details of action taken or proposed to be taken by HSE

Without knowledge of the full circumstances of the death or the identity of the specific laundry tablets/pods that Ms Van Der-Drift consumed, we are unable to comment on the extent to which the product in question may have been compliance with the packaging and labelling requirements for liquid consumer laundry detergents in soluble packaging in the GB CLP Regulation.

There are requirements related to design features in terms of the packaging of laundry tablets/pods to make accessing the contents more difficult. Even though the GB CLP Regulation does not specifically set out protective measures for those with dementia or cognitive disabilities as an explicit legal requirement, the secure

packaging and labelling requirements provide some mitigation in accessing the laundry tablets/pods.

Where an individual is unable to identify hazard communicated through the label, parents, support staff or carers for vulnerable persons should make that identification on their behalf and implement safeguarding measures for that individual, including restricting access through safe storage, whether in the home, residential care or care home.

HSE is not proposing additional provisions to the GB CLP Regulation but will continue to keep the position under review, including whether further regulatory measures might be needed. HSE will continue to work with bodies that enforce CLP, including trading standards and local authorities to address breaches of the regulation.

I hope this response helps to address the concerns set out in your report and explains our position.

Yours sincerely,



Classification, Labelling and Packaging Team Leader

ANNEX

RELEVANT REGULATORY PROVISIONS AND GUIDANCE WITH RESPECT TO THE PACKAGING OF LAUNDRY TABLETS/PODS (LIQUID CONSUMER LAUNDRY DETERGENTS IN SOLUBLE PACKAGING FOR SINGLE USE)

The assimilated Regulation (EC) No.1272/2008 on the classification, labelling and packaging of substances and mixtures ('the GB CLP Regulation'), for which HSE, as the GB CLP Agency, has policy responsibility, sets out a number of measures that must be taken by suppliers to ensure hazardous substances and mixtures such as liquid consumer laundry detergents in soluble packaging for single use (laundry tablets/pods) are compliant.

General requirements for packaging

Article 35 of the GB CLP Regulation includes general requirements for packaging containing hazardous substances or mixtures to ensure that:

- the packaging is designed, constructed and fastened so that the contents cannot escape;
- the materials of the packaging and fastening are not damaged by the contents and are not liable to form hazardous compounds with the contents;
- the packaging and fastenings are strong and solid throughout to ensure that they will not loosen;
- packaging fitted with replaceable fastening devices is properly designed to allow repeated refastening without the contents escaping;
- the packaging does not attract or arouse the curiosity of children or mislead the consumer when supplied to the general public;
- the packaging does not have a similar presentation or a design used for foodstuff or animal feed stuff or medicinal or cosmetic products which would mislead the consumers

Additional rules for packaging of substances and mixtures to be supplied to the general public

The GB CLP Regulation also sets out additional rules for substances and mixtures to be supplied to the general public:

- the use of child-resistant fastenings, also referred to as child-resistant closures;
- the use of tactile warnings of danger; and
- specific safety measures for liquid consumer laundry detergents in soluble packaging for single use.

A consumer laundry detergent is a detergent used for laundry, placed on the market for use by the general public and non-professionals, including public launderettes

Other Regulations

In addition to the GB CLP Regulation, the assimilated Detergents Regulation – Regulation (EC) No.648/2006 - establishes technical standards and requirements in relation to detergents and surfactants for detergents including labelling requirements to ensure a high degree of protection for human health and the environment.

Other general consumer product safety legislation, such as the General Product Safety Regulation 2005, will also apply.

Design features of consumer laundry detergent packaging

Article 35(2) and section 3.3 of Annex II to CLP set out the following legal requirements on the design of packaging and the labelling of liquid laundry detergents in dosages for single use contained in a soluble packaging.

Guidance on the design features below is taken from the European Chemicals Agency (ECHA) Guidance on Labelling and Packaging – Version 4.0 of March 2019.

Obligation to market liquid consumer laundry detergents in an outer packaging

Liquid consumer laundry detergents contained in soluble packaging for single use (for example, liquid capsules or liquitabs for use in washing machines) must be contained in an outer packaging. Failure to do so is considered as non-compliant with Article 35(1) and section 3.3.1 of Annex II to the GB CLP Regulation.

Provisions on the outer packaging

In order to reduce the attractiveness to children and other vulnerable groups of liquid consumer laundry detergents contained in soluble packaging for single use, the outer packaging must be opaque or obscure (for example non-see through container of a block colour(s)) to prevent visibility of the contents, i.e. the product or individual doses. The outer packaging must also bear a precautionary statement P102 (“Keep out of reach of children”) at a visible place and in a format that attracts attention.

Furthermore, the outer packaging must be a self-standing container that is easily re-closable, i.e. the pack closure must be easily re-closable in one single movement (for example with one finger pressure for a tub packaging). This measure aims to avoid the risk that the container will simply be left open if closing is too difficult.

As the main cause of incidents seems to be the easy access to the laundry tablest/pods, the outer packaging must be fitted with a closure that impedes the ability of young children and other vulnerable groups to open the packaging. Such a closure should require a coordinated action of both hands with a certain strength that makes it difficult to open it.

This requirement does not necessarily correspond with the closure requirement for child resistant fastenings. In addition, the pack closure must be designed for repeated use to maintain its functionality under conditions of repeated opening and closing for the entire life span of the outer packaging.

Provisions on the soluble (inner) packaging

Additional technical requirements (mechanical resistance and water dissolution) were introduced to make the soluble packaging more resistant. In addition to the requirements for the outer packaging, the soluble packaging must contain an aversive (e.g. bittering or other repulsive) agent against oral exposure. The aversive agent must be added in a concentration that is safe and that causes oral repulsive behaviour within a maximum time of six seconds.

The soluble film must meet minimum mechanical and dissolution resistance criteria. It must retain the liquid content for at least 30 seconds when placed in water at 20°C. It must also resist mechanical compression of at least 300 N under standard test conditions.