

SUBMISSION TO THE DEFRA CONSULTATION ON THE IMPLEMENTATION OF EU PESTICIDES LEGISLATION

FROM THE UK PESTICIDES CAMPAIGN



WITHOUT PREJUDICE

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Dear Caroline Kennedy,

Please note that any comments made within the following Section of this submission to the DEFRA Consultation are Without Prejudice to any continuing legal proceedings.

The following is the final part of the UK Pesticides Campaign's submission and is:-

- Section 4: Other comments in relation to the Consultation document, including on various Articles

SECTION 4: OTHER COMMENTS IN RELATION TO THE CONSULTATION DOCUMENT, INCLUDING ON VARIOUS ARTICLES

4.1 Please note that section 4 has had to be produced in haste due to lack of time left to complete this submission. It is not as detailed as sections 1, 2 and 3, as the previous sections covered the most important points regarding residents and communities (including Article 12 regarding the option for the prohibition of the use of pesticides in the locality to homes, schools, children’s playgrounds and public areas, as well as the two new provisions for prior notification and access to information in Chapter 6). Also most of the following has had to be left in note form only without the usual full detailed arguments and comments provided. Therefore I hope the following is clear, but if not please do contact me and I can provide any clarification required.

4.2 The following sub-headings detail some other comments in relation to the Consultation document, including specific comments on the various Articles of the SUD (excluding Article 12 which is dealt with in Section 2 above), along with some additional comments on Chapter 6 (re. prior notification and access to information).

Additional comments on Chapter 6 (re. prior notification/access to information)

4.3 Para 4.15 of the Consultation document refers to the Voluntary Initiative (VI) and states that, *“These are designed to minimise the risks arising from the use of pesticides.”* The VI is only related to the environment and does not focus on health.

4.4 Table on page 201 of the Consultation document states, *“Continued local flexible arrangements for notifying neighbours.”* Then under advantages it states, *“Allows flexibility and enables stakeholders to continue to identify and agree appropriate solutions on a local basis”* and *“Enables Government and industry leadership to influence the behaviour of individuals and firms through information, advice and persuasion without imposing greater bureaucratic and financial burdens.”*

4.5 Voluntary and self-regulatory measures have existed for decades, have not worked, as can even be seen in the PIAP reports (see Section 3 of this submission at paragraphs 3.43 to 3.45) and are completely unacceptable in this situation. Therefore the

introduction of statutory measures is essential. (Also see Sections 2 and 3 of this submission at various paragraphs regarding the existing real-life adverse impacts and burdens on rural residents and communities from crop-spraying activities, which includes impacts not only on their health, but also on their environment, as well as related costs and other financial implications).

4.6 Paragraph 7.2 on page 202 of the Consultation document states, “*Under option 2 the costs would mainly arise out of: an approximate doubling of the numbers of PPP users providing advance notice to neighbours*” and “*the voluntary use of public information signs on land that is used by the public, assuming this would be practiced by 50% of farmers on a voluntary basis.*” I am not sure where these figures came from, but they are not realistic, as if farmers and other pesticide users are not providing notification and access to information already, there is no real evidence at all to support the assumption that they will suddenly do it under this option. Therefore the aforementioned statements in paragraph 7.2 are merely unsupported assertions.¹

4.7 Para 1.2 on page 189 of the Consultation document states, “*The Government is carrying out a public consultation on the implementation of the SUD. As part of this consultation exercise, Government wishes to additionally seek stakeholder views on the approach to be taken on whether and how to utilise two provisions in the Regulation, concerning; a) the provision of advance notice of pesticide operations to neighbours² and b) keeping and disclosing records on pesticides used.*” Para 2.4 on page 190 also states, “*The Government wishes to seek stakeholder views on whether and how these powers should be used and is consequently including these proposals with the consultation on implementing the Sustainable Use Directive.*” This is also in

¹ The same point applies to the assumption in the table on page 203 regarding Option 2 that states, “*Assumes notification activities would approximately double from current baseline levels of 25% (of those who are asked to provide notification) to about half of what could be expected from the introduction of a legal requirement.*” In any event this is not acceptable as it means some residents would receive notification and others will not. A legal requirement has to be introduced to make sure that prior notification is consistent for all rural residents across the country.

² As said in footnote 98 in Section 3 of this submission, considering that “*residents*” has now been defined in a number of European documents, and is referred to in both the PPP Regulation and the SUD then for consistency, residents should be used instead of “*neighbours*” when referring to residents.

paragraph 3.40 of the Consultation document that states, “*This consultation seeks views on whether and how these two provisions should be implemented in the UK.*”

4.8 It is not a case of “*whether*” these provisions are implemented, but that they have to be under the new PPP Regulation, at least in relation to Article 67.

4.9 Para 3.4 on page 191 of the Consultation document states, “*However, the competent authority is not legally obliged to request this information from the “record keeper” but has a choice whether or not to do so.*”

4.10 The UK Pesticides Campaign is not sure that this is the correct interpretation of the EU text, as it says that the information contained in these records is to be made available to the competent authority on request. Irrespective as to whether there is a legal obligation for the Competent Authority to obtain the information from the record keeper or not, there is a legal obligation for the Competent Authority to provide it to residents (or others) who request it. Therefore this is related to the same point I made earlier in paragraph 3.29 of Section 3 of this submission, in that the aforementioned statement in para 3.4 on page 191 of the Consultation document simply does not fit with the requirement of what the Competent Authority would have to do to comply with Article 67. It clearly states in the text of Article 67 of the new PPP Regulation that the Competent Authority would have to provide information upon request. **To do this the Competent Authority would have had to have obtained the information from the “record keeper” concerned in the first place.**

4.11 Paragraph 6.2 of the Consultation document states, “*Other objectives may include improving compliance, improving traceability of exposure, and increasing community understanding of risk and increasing public reassurance. Different objectives will emphasise some types of benefits over others, whilst raising concerns about certain types of costs over others. The balancing of costs against benefits will require a comparison of the qualitative benefits to a specific community of individuals against the potential costs to the farming industry and specifically to some individual businesses.*”

4.12 In relation to the first bit underlined, see the comments made earlier at paragraph 2.21 and related footnotes in Section 2. In relation to the second statement underlined, see the comments made earlier at paragraphs 1.23 to 1.33 of Section 1 regarding the UK Government's reliance on an inapt and improper balancing approach and the fact that DEFRA has previously stated³ that there is not supposed to be a trade off when it comes to the risks to health from pesticides with the benefits and that if there is scientific evidence that use of a pesticide may harm human health that is to be considered unacceptable, and that approval for use would be refused, whatever the benefits. As said at para 1.31 of Section 1, there can no balancing approach in a legal framework such as this, as the protection of public health must be paramount.

4.13 Paragraph 6.3 of the Consultation document under the heading "*Benefits of Notification and Disclosure*" it says, "*While pesticides are potentially hazardous chemicals, the regime governing their authorisation and use includes sufficient **inbuilt risk management processes** to ensure that their correct use presents minimal risk to human health. The primary purpose of these notification and disclosure proposals is therefore not related to the reduction of a specific risk to human health or the environment but, rather, to address general principles of openness and transparency.*" Again, as stated earlier in para 2.60 in Section 2, there are no mitigation measures or processes put in place in relation to residents' exposure (that includes babies, children, pregnant women, people already ill, those taking medication, and the elderly etc.) as there is currently no exposure and risk assessment for a residents specific exposure scenario at all. Therefore the aforementioned statement in para 6.3 of the Consultation document is again grossly inaccurate and very seriously misleading.

4.14 Paragraph 6.8 on page 199 of the Consultation document states, "**It is not even clear whether provision of the information itself would result in benefits in terms of a reduction in the level of concern or, whether, in some cases, its availability could add to the general level of concern by heightening anxiety.**"

³ In a Joint Memorandum entitled "*Progress on Pesticides*" submitted by DEFRA and HM Treasury in October 2004 to an enquiry by the Environment, Food and Rural Affairs (EFRA) Committee.

4.15 This statement is again, (as per the others highlighted in para 2.21 and related footnotes in Section 2), quite frankly grossly insulting, disrespectful and patronizing to anyone who has suffered acute and/or chronic adverse health impacts as a result of exposure to pesticides. In relation to other comparable policy areas there are clear warnings of adverse health impacts on cigarette packets and which are required by law to be there to inform people about the dangers and risks associated with smoking. Therefore it is simply not a question as to whether providing warnings about smoking adds to the *general level of concern by heightening anxiety*, but the fact that there are clear recognised health benefits of providing the necessary information and the related public health warnings. As said earlier at para 3.11 in Section 3, in relation to access to information on pesticides, people have a fundamental right to know the information necessary to make informed and knowledgeable decisions to protect their health and the health of their family from any harm. (Although obviously the fundamental point is that people should have the right not to be exposed to pesticides at all in the first place).

4.16 Paragraph 6.9 of the Consultation document states, *“For the most part then, the potential benefits are not quantified but are acknowledged as including societal and “quality of life” benefits arising out of the introduction of greater public choice with respect to the information that is available. It may be that the disclosure of this information will reduce public concern about pesticide use, or at the very least it may lessen concerns that are due solely to the lack of availability of the information. **The consultation will seek clarification on these issues from stakeholders who may be able to provide evidence of the potential benefits from the viewpoint of concerned members of the public.”***

4.17 **The UK Pesticides Campaign has, for over 9 years now, continued to provide evidence to the Government, DEFRA, PSD/CRD and others of the benefits to residents of both prior notification and access to information. As said earlier in Section 3, the benefits are not related to *reducing public concern about pesticide***

use, but are predominantly related to health benefits,⁴ as prior notification and access to information will enable residents to take any necessary action to try and reduce exposure as much as possible.

4.18 In relation to the sentence in paragraph 6.9 of the Consultation document that states, “*The consultation will seek clarification on these issues from stakeholders who may be able to provide evidence of the potential benefits from the viewpoint of concerned members of the public,*” again see earlier comments in Section 2 regarding the fact that there were no residents or members of the public on the Consultee list. **Therefore who were DEFRA/CRD referring to in the aforementioned statement, as it would be completely unacceptable if it was in reference to the industry providing this evidence, rather than those who are, like myself, directly affected, and who are therefore the only people who are in the position to comment on the assumptions and assertions that have been made in the Consultation document.**

Responses to Questions 35 and 36 regarding Penalties and Compliance in Chapter 6

4.19 Question 35 asks, “*Do you have any comments on the appropriateness of different types of penalty for non compliance – criminal or administrative?*”

4.20 If new legal obligations are introduced in the UK for prior notification and access to information then any non-compliance with those requirements would have to result in the appropriate penalty. It would be completely unacceptable if penalties were to only come into force following repeated non-compliance in relation to providing access to spray records or prior notification of spraying (which I think may have been suggested by another stakeholder who has submitted to the DEFRA consultation). A breach that could lead to an injury to human health cannot be overlooked on the suggested argument in defence that it was a first offence!

4.21 In relation to the question as to the appropriateness of different types of penalty for non compliance – criminal or administrative, it would depend on what the

⁴ As previously recognised by DEFRA officials in 2006, see paras 2.23 and 2.24 in Section 2 of this submission.

administrative penalty is, as if it is just in the form of a warning letter (and thus effectively just a *slap on the wrist*) then the UK Pesticides Campaign does not think that that would be acceptable. Therefore in the absence of being able to find in the Consultation document any examples of what the administrative penalties would be then I cannot make any further comments in response to this question.

4.22 **Question 36 asks, “Which approach do you think would be more effective in dealing with non-compliance?”**

4.23 Criminal penalties are more likely to be more of a deterrent, but again in the absence of being able to find any examples in the Consultation document of what the administrative penalties would be then I cannot make any further comments in response to this question.

Comments on Specific Articles and Related Questions in the Consultation Document

Article 4: National Action Plans (NAPs)

4.24 The objectives of National Action Plans should be for prevention of both health and environmental risks, including hazards, as in relation to human health, the risks must be prevented completely not just reduced. The only real solution to eliminate the adverse impacts of pesticides on human and animal health and the environment is to take a preventative approach with the widespread adoption of truly sustainable non-chemical methods of plant protection and pest and crop management. This would be more in line with the objectives for sustainable crop protection.

4.25 To truly harmonise the level of protection as a result of the new EU legislation then the flexibility afforded to Member States should be kept to a minimum.

4.26 An important element of Article 4 is in relation to public participation. This is recognised in the text of the European Framework Directive, for example, the EU text for recital 7 states, “*For the preparation and modification of National Action Plans, it is appropriate to provide for the application of Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in*

respect of the drawing up of certain plans and programmes relating to the environment.” Article 4, paragraph 5, of the text of the European Framework Directive also states, *“The provisions on public participation laid down in Article 2 of Directive 2003/35/EC shall apply to the preparation and the modification of the National Action Plans.”* The EU text is therefore very clear in relation to providing for public participation as laid down in Directive 2003/35/EC.

4.27 In the Impact Assessment for the SUD in the DEFRA Consultation document, on page 134, paragraph 8.11 states, *“There is a general benefit to be gained from having a NAP in that it provides a framework in which to develop the range of controls, **promote stakeholder engagement**, allows improved analysis of impacts through **agreed indicators**, and therefore better supports policy/decision making in a way that could lead to reductions in risk to human health and the environment.”*

4.28 There can only be stakeholder engagement if all the relevant stakeholders are involved in that engagement. However, as detailed earlier within the complaints in Section 2 (at paras 2.16 and 2.17), the Government, and in particular CRD, continues to ignore one of the most important Stakeholders in this issue, as there is no representation of rural residents and communities on any of the National Pesticide Strategy action plan groups, in particular the health group, nor on the Pesticides Forum or its sub-groups, as all these groups are dominated by industry bodies and Government agencies. Therefore there is simply no representation of rural residents and communities (or other members of the public) with the direct experience of living near sprayed fields, on any of these groups. This is despite the fact that the UK Pesticides Campaign has continued to express interest in representing residents on these groups, especially the human health group, as it specifically and directly involves exposure for rural residents and communities. **The non-inclusion of any representative specifically for residents interests is a very significant and serious omission and is highly discriminatory and so needs to be urgently rectified.**

4.29 It is imperative that all relevant Stakeholders are involved in all aspects of the national action plans, and in particular this must include those adversely affected by

the use of pesticides such as rural residents and communities. The public should be able to participate fully in the drafting, development, implementation, workings, monitoring and amendments of national action plans, (as well as any national indicators), to be in line with the spirit of Directive 2003/35/EC providing for public participation.

4.30 Article 4, para 1, sub-paragraph 4 of the text of the European Framework Directive states, “*When drawing up and revising their National Action Plans, Member States shall take account of the health, social, economic and environmental impacts of the measures envisaged, of specific national, regional and local conditions and all relevant stakeholder groups.*” Yet as fully detailed in the earlier sections above (eg. at paras 2.18 to 2.20), the DEFRA Consultation document still does not recognise within the text the acute and chronic adverse health impacts of pesticides. Therefore again the UK Government’s position does not appear to be in line with the aforementioned statement in the EU text, at least not in relation to taking account of, or even recognizing, either the health impacts, or “*all relevant stakeholder groups*” (as set out above).

4.31 Para 5.6 of the Consultation document states, “*The government believes that, provided approved pesticides are applied correctly, no concerns should arise from their use. Attaching such a label to particular products without sound evidence may lead to unfounded concerns about impacts arising from their use.*” See earlier comments at paras 2.60 to 2.65 in Section 2, and paras 1.9 to 1.22 in Section 1 regarding the failings of the current UK policy to protect people from pesticides. The aforementioned sentences in para 5.6 of the Consultation document do not even fit with the clear acknowledgment from the European Commission regarding the risks and acute and chronic adverse impacts from the use of pesticides and which was the main reason for the development of the new European Framework Directive. Also, as said earlier at para 2.58 in Section 2, the existing assessments in the UK to assess the risks and impacts from the use of pesticides are predominantly based on exposure to only one *individual* pesticide at any time, which is a fundamentally flawed approach considering that agricultural pesticides are rarely used individually, but are commonly

sprayed in mixtures. As said earlier in para 2.58 in Section 2 (with examples given in footnote 68), various studies have shown that mixtures of pesticides (and/or other chemicals) can have synergistic effects.

4.32 As a result of the UK Government's *belief* that "*provided approved pesticides are applied correctly, no concerns should arise from their use*" then it admits⁵ that, "*The UK's existing control regime does not specifically identify and consequently monitor substances of concern.*" It would therefore appear that this applies to any pesticide approved for use in the UK (at least in relation to adverse health impacts arising from its use).⁶ As pointed out earlier in para 1.9 in Section 1, pesticides are hazardous chemicals and therefore any pesticide should be considered a substance of concern, especially considering as pointed out in the previous paragraph that agricultural pesticides are rarely used individually, but are commonly sprayed in mixtures.

4.33 Further, considering that the Government's *own findings* found exceedances of the safety limits set for exposure (the so-called Acceptable Operator Exposure Level (AOEL)), in some cases an *order of magnitude higher*, for a number of products,⁷ then any pesticide would automatically in any event be a substance of concern in exposure scenarios where the exposure assessment is so fundamentally flawed and inadequate that it results in a) risks to health for the exposure group concerned; and b) exceedances of the safety limits set for exposure⁸ (as any exceedance of which, on the Government's *own previously stated case*, would lead to immediate action of authorizations being refused (or trigger prohibition if already approved)).

4.34 Paragraph 8.12 of the Impact Assessment for the SUD states, "*Any potential additional benefits depend on the option chosen; there may be reductions in use of specific substances **with a consequential reduction in the risk of adverse effects***"

⁵ Also in para 5.6 of the Consultation document.

⁶ As opposed to environmental impacts where it appears from what is said in para 5.6 of the Consultation document that some monitoring (and related action) may at times occur, as para 5.6 states that, "*the UK Pesticides Strategy action plan groups will be aware of, and ensure that action is taken on, for example, substances that may compromise compliance with the requirements of the Water Framework Directive.*"

⁷ That were approved for use at the time that the exposure estimates were undertaken.

⁸ Which of course can only be properly identified when all the relevant exposure factors and routes are included in the exposure calculations (summed) which in relation to exposure for residents they currently are not so there is currently no exposure and risk assessment for a residents specific exposure scenario.

caused by the use of these substances or potential risk reduction to health and the environment through other targeted risk reduction measures.” The UK Pesticides Campaign would just like to point out that unlike in so many other statements in the Consultation document, it is good that DEFRA/CRD has correctly recognised in the aforementioned statement that there is a risk of adverse health effects caused by the use of these substances. This is an important recognition and the UK Pesticides Campaign welcomes it.

Responses to Questions 1 to 3 regarding Article 4: National Action Plans (NAPs)

4.35 **Question 1 asks, “*What is your preferred approach for a National Action Plan and why?*”**

4.36 There is not actually a specified Option within the three Options as they have been set out in the Consultation document, that the UK Pesticides Campaign can support as such, as none of them go far enough in relation to the necessary measures and controls that need to be introduced to protect public health, and in order to switch to “non-chemical control or prevention methods, which are significantly safer for human and animal health and for the environment,” as stated in Recital 20 of the new PPP Regulation. Therefore there should be a section specifically within the National Action Plan to take forward the Thematic Strategy and SUD aim of promoting and encouraging the use of non-chemical methods in order to reduce dependency on the use of pesticides. **There is no mention of this in the Consultation document regarding Article 4 and so the UK Pesticides Campaign would urge the Government to include quantitative targets for the development and introduction of non-chemical methods.** It is noted that the first bullet point in paragraph 5.2 of the Consultation document states that Article 4 requires that Member States *“draw up National Action Plans (NAPs) which effectively describe how they will implement the measures detailed in this Directive and to set quantitative targets to reduce risk and impacts of use of pesticides and encourage the development and introduction of integrated pest management.”* However, IPM is not the same as non-chemical methods (see comments below regarding Article 14) and therefore there

should be quantitative objectives, targets, measures and timetables for the development and introduction of non-chemical methods.

4.37 **Question 2 asks, “How can NAPs best be used to reduce the risks associated with pesticide use to human health and the environment?”**

4.38 By introducing the mandatory measures detailed in this submission, and which are in summary at para 3.73, and by prioritising the use of non-chemical methods and using quantitative objectives, targets, measures and timetables for the development and introduction of non-chemical methods. As highlighted at para 2.33 in Section 2 of this submission, in 2003 the then DEFRA Minister for Food and Farming, Lord Whitty, stated that, “***Reducing reliance on pesticides is a priority, and we want to find alternative, more environment-friendly pest controls for farmers and growers.***” However, this statement has not been backed up by any real action by the Government to move away from chemical dependency and the strong ties with the agro-chemical industry to the development of sustainable non-chemical farming methods.

4.39 **Question 3 asks, “What are your views on introducing a pesticide reduction target in the UK?”**

4.40 As said in footnote 73 of Section 2, based on the existing evidence of the inadequacy of the current policy and approach in relation to public health protection, the UK Pesticides Campaign supports the prohibition of the use of pesticides in the locality to residents’ homes, schools, children’s playgrounds and public areas, as opposed to merely introducing mandatory use reduction targets which, quite simply, would not be adequate enough considering the health risks and related acute and chronic adverse health impacts from pesticide exposure. The UK should be focusing on eliminating the exposure of, and dependence on, pesticides not merely reducing it.

Article 5: Training and Certification requirements

4.41 Spraying toxic chemicals is a hazardous activity and therefore anyone who uses pesticides whether professional or non-professional must be given the correct,

accurate and complete information and therefore be fully informed as to the risks and related acute and chronic long-term adverse health and environmental impacts of pesticide use.

4.42 In Article 5, paragraph 2, of the European Framework Directive, in relation to certificates, the EU text states, “*These certificates shall, as a minimum, provide evidence of sufficient knowledge of the subjects listed in Annex I acquired by professional users, distributors and advisors either by undergoing training or by other means.*”

4.43 Paragraph 3 of Annex 1 of the European Framework Directive text regarding the training subjects referred to in Article 5, states, “*The hazards and risks associated with pesticides, and how to identify and control them, in particular: (a) risks to humans (operators, residents, bystanders, people entering treated areas and those handling or eating treated items) and how factors such as smoking exacerbate these risks; (b) symptoms of pesticide poisoning and first aid measures; (c) risks to non-target plants, beneficial insects, wildlife, biodiversity and the environment in general.*”

4.44 Therefore it is clear from the EU text that all pesticide users must be aware of the risks to residents, amongst others. This was not referred to anywhere in the text of the DEFRA Consultation document. It is important to stress the fact that, as said earlier in Section 2, the Government’s continued lack of recognition in the Consultation document of the risks of acute and chronic adverse health impacts of pesticides, in particular for residents and other members of the public, and the lack of any recognition of the associated costs and other financial implications for residents, is not only highly misleading, it seriously misinforms farmers and other pesticide users of the risks regarding residents and the public. Considering the training and certification requirements in Annex 1 actually requires all pesticide users to be aware of the risks to residents, then it really is counterproductive for the Government, DEFRA and CRD to continue to play down the risks and adverse health, environmental and financial impacts of pesticides on rural residents and communities,

(as well as on other members of the public) in the way it has done in this Consultation document.

4.45 Anyone who uses pesticides must be fully aware of all the relevant exposure factors and related risks not only for their own health, but for the health of others who may be exposed, in particular residents and communities living in the locality to sprayed fields. Therefore pesticide users (in particular those in the agriculture sector) should have full training and knowledge of all relevant exposure factors including long-term exposure to pesticides in the air, exposure to vapours (including after application), reactivation, precipitation, pesticides transported from outdoor applications and redistributed into an indoor air environment, exposure to mixtures, pesticide residues transported on pollen or crop dust (eg. at harvest), spreading of contaminated soil and long-range transportation.

Grandfather Rights

4.46 The abolishment of Grandfather Rights is very, very long overdue, as the “*grandfather rights*” system was always completely unacceptable, as operators should never have been allowed to spray hazardous chemicals if they did not receive any official training and certification. This proposed action would also harmonise all pesticide users’ requirements.

4.47 Para 5.28 of the Consultation document states, “*Views are sought on whether we should require these operators to take the full training course and assessment, as required for other professional users, or alternatively allow this group to take a modified form of training and assessment, which recognises their experience and would be less costly.*”

4.48 As said above, those holding Grandfather Rights should have been trained in the first place. Motorists are not allowed to drive a car on the road unless they have a) taken lessons and training; and b) passed a test to show his/her competence, as the law requires all driving license holders to have passed an officially recognised test

before they are allowed on the roads (and that is just in relation to driving a car and not to be in charge of the spraying and release of mixtures of hazardous chemicals!)

4.49 Therefore those operators who currently hold Grandfather Rights should be required to take the full training course and assessment, as required for other professional users and should not be treated any differently as they should have the appropriate and necessary official certification (otherwise it is like someone saying they don't need to take a driving test because they have already previously driven!)

4.50 The table on page 140 calculated the number of grandfather rights holders from figures used in 2006 as being between 27,000 to 41,000. Then it says at the bottom of page 140 that, “*Total number of spray operators = 82,000 (72,000 agriculture and 10,000 amenity) and 20,000 already participate in CPD schemes.*” It would therefore appear from these figures that nearly half of those spray operators in the agriculture sector are those with Grandfather Rights and who thus have no official/formal training or certification. This is a very high number and is quite frankly outrageous, that these operators have no recognised training and yet they are in charge of spraying mixtures of hazardous chemicals in fields all over the country.

Advisors

4.51 Para 5.30 of the Consultation document states, “*we envisage two key benefits to requiring advisors to undergo initial and additional training in the same manner as professional users and distributors:*

- *It would introduce consistency across the industry.”*

4.52 This is very important, especially considering the bullet point goes on to say “*there is heavy usage of advisors in the agricultural sector, with 60% consulting with an advisor, and 45% allowing an advisor to make the decision about which pesticides are used*” and also considering the second bullet point of para 5.30 that states, “*The requirements of the Directive will place an increased emphasis on the role of the advisor in assisting users to work in a sustainable manner. It is important therefore that they are well qualified and have up-to-date knowledge.*”

4.53 Para 5.33 of the Consultation document states, “*Around 370 advisors on the BASIS Professional Register hold Letters of Exemption and it is estimated that up to a further 200 advisors in the industry have not undertaken any officially recognised training...*” Para 5.32 of the Consultation document states, “*The introduction of training and certification requirements for advisors raises a further ‘grandfather rights’ issue, that of the Letters of Exemption issued by BASIS to advisors. We are proposing that these are phased out.*” Again it really is outrageous considering the inherent risks and adverse impacts on human health that pesticides can cause and I cannot think of any other industry that would be allowed to do this, as all users and advisors should be fully and officially trained and certified.

Withdrawal of certificates

4.54 Para 5.37 of the Consultation document states, “*The government is conscious of the effect withdrawal would have on a person’s livelihood, not only in terms of perhaps losing their job but also in terms of the additional costs of hiring someone to carry out the work on their behalf.*”

4.55 It is highly noticeable the disproportionate focus and recognition that DEFRA/CRD gives to the impacts on industry sectors and yet, as set out in the first 3 sections of this submission, there is a clear lack of any recognition of the real-life adverse health and environmental impacts and burdens on rural residents and communities from crop-spraying activities, as well as related costs and other financial implications.

Responses to Questions 4 to 7 re Article 5: Training and Certification requirements

4.56 **Question 4** asks, “*What is your preferred approach and why?*”

4.57 The UK Pesticides Campaign supports Option 3 for the reasons set out above.

4.58 **Question 5** asks, “*What type of training and assessment requirement would be appropriate for those spray operators with “grandfather rights”?*”

4.59 The response to this question has already been answered in what is detailed above at para 4.49.

4.60 **Question 6 asks, “Do you support the extension of the training and certification requirements (both initial and additional) for professional users and distributors to advisors?”**

4.61 Yes. The response to this question has already been answered in what is detailed above.

4.62 **Question 7 asks, “Are there particular offences that you think should automatically incur the withdrawal of a certificate?”**

4.63 Please note that there are some questions that I have not had time to answer on behalf of the UK Pesticides Campaign and this is one of them! There are some comments though above, regarding Penalties in relation to Chapter 6.

Article 6: Sales requirements

4.64 Please note that there are some Articles and related questions that I have not had time to go through/answer on behalf of the UK Pesticides Campaign in detail and Article 6 is one of them. Therefore the following are just some brief responses.

4.65 Those who buy pesticides are not always aware of the health risks of their use. Therefore information must be provided at the point of sale, and not only in relation to those pesticides classified as toxic or very toxic, as all pesticides are deliberately designed to be toxic and can pose hazards for human health. Therefore, anyone who purchases or uses pesticides, whether professional or non-professional, must be given the correct, accurate and complete information and therefore be fully informed as to the risks and related acute and chronic long-term adverse health and environmental impacts of pesticide use.

4.66 From the Impact Assessment section on page 142 at the bottom it states, “pesticide producers may be required to provide this information.” The UK Pesticides Campaign would like to know if there would be any outside, independent

checks at any time in relation to checking the accuracy and detail of the information and data that is provided by industry to distributors? If not, how is that to be monitored?

Responses to Questions 8 to 10 re Article 6: Sales requirements

4.67 **Question 8 asks, “What is your preferred approach and why?”**

4.68 I have not had time to consider this Article in detail and therefore I won’t specify a particular option that the UK Pesticides Campaign supports.

4.69 **Question 9 asks, “Do you think that micro-distributors meeting the requirements described in Article 6(1) should be exempted from the requirement to have sufficient certificated staff present at the time of sale?”**

4.70 No.

4.71 **Question 10 asks, “Do you have any comments on the system proposed for restricting the sales of pesticides for professional use to qualified users?”**

4.72 Again I have not had time to answer this, but I think that the response to this question has already been answered in what is detailed above.

Article 7: Information and awareness-raising

4.73 In Recital 10 of the European Framework Directive, the EU text states, “*Considering the possible risks from the use of pesticides, the general public should be better informed of the overall impacts of the use of pesticides through awareness-raising campaigns, information passed on through retailers and other appropriate measures.*”

4.74 In Recital 11 of the European Framework Directive, the EU text states, “*Research programmes aimed at determining the impacts of pesticide use on human health and the environment, including studies on high-risk groups, should be promoted at European and national level.*”

4.75 In Article 7, para 2, of the European Framework Directive, the EU text itself refers to “persons living close to pesticide application areas”.

4.76 In Article 7, para 1 of the European Framework Directive, the EU text states, “Member States shall take measures to inform the general public and to promote and facilitate information and awareness-raising programmes and the availability of accurate and balanced information relating to pesticides for the general public, in particular regarding the risks and the potential acute and chronic effects for human health, non-target organisms and the environment arising from their use, and the use of non-chemical alternatives.”

4.77 It is noticeable that the wording from the EU text from “in particular” to “non-chemical alternatives” is missing from the description of Article 7 in para 5.75 of the Consultation document, yet those words are very important, as it again shows the recognition that adverse health effects (both acute and chronic) has in the EU text, and which is not reflected in the policy here in the UK. See paras 2.18 to 2.20 in Section 2 of this submission under the heading “Non-inclusion of recognised acute and chronic adverse health impacts of pesticides” in the DEFRA Consultation document.

4.78 The public must be informed about both the health and environmental risks and acute and chronic adverse effects related to the use of pesticides, along with information on the non-chemical alternatives available. This would enable people to have the information necessary to make informed and knowledgeable decisions and actions regarding the protection of their health and surrounding environment.

4.79 In response to the words underlined above in Article 7 that states, “and balanced information” – the information is either right or it is not and there is no such thing as balance when it comes to the protection of human health. Again a good comparison of this is in relation to smoking and the warnings that are required by law to be on cigarette packets, as the warnings and the facts that are provided on the label are factually correct. It is not then “balanced” out with industry pr spiel and propaganda about the, for example, “*significant benefits of smoking,*” although I would fully

accept that this happened in the past with cigarette advertising, which was obviously subsequently banned, because it was inappropriate etc. Therefore considering the health risks and acute and chronic adverse health effects that pesticides can cause, then it cannot have industry trying to (and even worse, being allowed to) balance the factually accurate information provided⁹ about the human health risks and adverse impacts by saying it is *all safe* and there is *no risk* when that is simply not factually correct (and in some states in the US it would be a federal offence for the industry to make such claims).

4.80 Para 5.76 of the Consultation document states, *“The most common situation where the general public may come into contact with pesticides is through the purchase and use of amateur products.”*

4.81 This is highly misleading, as the UK Pesticides Campaign would maintain that the most common situation where members of the public, in particular rural residents and communities and others in the countryside, come into contact with pesticides is through the use of approx 31,000 tonnes of pesticides used on British farmland every year. As said in footnote 65 in Section 2 of this submission, considering that approx. 80% of pesticides used in this country each year are related to agricultural use (and that agricultural use accounts for approx 86% of sales per year) then the statistics would appear to support this. This again shows DEFRA’s and CRD’s reluctance to acknowledge the exposures, risks and adverse impacts of pesticides for residents.

4.82 Para 5.79 of the Consultation document states, *“Overall, there are various methods by which the general public may access information on the risks and potential effects from pesticide use. However, it is understandable that some sections of the public may wish to have access to perhaps different or more detailed information. To help us to assess whether there are significant gaps in the information available to the general public, views are sought on the adequacy of the current position.”* There is an overlap here with Chapter 6, so I would refer to the comments the UK Pesticides Campaign made in Section 3 of this submission.

⁹ Banking on the fact that it is factually accurate information that is provided, as it depends on who is providing it!

4.83 In para 6.8 of the Consultation document, on page 130, the second bullet point states, “*put in place systems for gathering information on pesticide acute poisoning incidents, as well as chronic poisoning developments where available, among groups **that may be exposed regularly to pesticides** such as pesticide operators, agricultural workers **or persons living close to pesticides application areas.**”*

4.84 This is again recognition by the EU that residents are regularly exposed to pesticides, and are therefore one of the highest exposure groups (and unlike operators residents do not have any protective or mitigating measures to prevent such exposure), which is simply not recognised or reflected in the tone and content of the UK DEFRA Consultation document (see Sections 1 to 3 of this submission).

4.85 In response to paras 5.81 and 5.82 of the Consultation document, considering I have already meticulously and accurately detailed the failings of the current UK policy and approach to protect residents (and the public) from pesticides, (including in relation to the existing monitoring system), in previous materials, in particular, the six Witness Statements produced for the legal case *Georgina Downs v DEFRA*, then I would just refer the Government, DEFRA, CRD and others, to those materials. (The electronic copies of which are now available on my campaign website at: http://www.pesticidescampaign.co.uk/witnessStatement_1.htm).

Responses to Questions 11 to 12 re Article 7: Information and awareness-raising

4.86 Question 11 asks, “*Do you think that more information should be provided to the general public on the risks and potential effects of pesticides? What information would be useful and how should it be provided?*”

4.87 Again I have not had time to answer this, but think that the response to this question has already been answered in what is detailed above, as well as in the other sections, in particular Section 3, and also at pages 87 to 97 of the submission to the 2003 Consultation which is included with this submission at Annex 1.

4.88 However, just to add here though that it would be a good start if the UK Government, DEFRA, CRD and other officials and advisors started to give the public

the correct, accurate and complete information about the dangers and risks that are inherent in the use (and spraying) of pesticides. This would then provide the public with the information necessary to make fully informed and knowledgeable decisions to protect their health and the health of their family from any harm.

4.89 This information would obviously need to include information on what all the routes of exposure are (ie. oral, dermal, inhalation, as well as eyes) and what the sources of exposure are (eg. for people who live near sprayed fields this would include both outdoor and indoor air, water, dust, soil and food etc.) They would also need all the necessary chemical information of what chemicals they are being exposed to, including in relation to the increased toxic effects of chemical mixtures.

4.90 **Question 12 asks, “*Can you suggest any improvements to the information gathering systems used by government?*”**

4.91 Yes. Start to act on the information provided by individuals reporting to PSD/CRD. For example, many individuals submitted to the 2003 DEFRA Consultation reporting adverse health effects. I know I have the submissions! Did the Government follow up on any of these cases? No. It should, and should also follow up on any other reports it receives from members of the public adversely affected from exposure to pesticides. There should be a proper independent reporting system in place for both acute and chronic adverse health impacts, with access to cross-specialists support, depending on the chronic health impacts suffered by individual patients (ie. consultant neurologists, toxicologists, immunologists, cardiologists etc.)

Article 8: Equipment Testing

4.92 Spraying pesticides is a hazardous activity and therefore all application equipment and accessories for professional use should be tested on a regular basis as damage could occur to the equipment at any time, (even shortly after it may have passed one test and long before another). Compulsory testing of at least once a year, (which is the same as it is in relation to MOT’s for cars), as well as the possibility of random testing should be required after the initial inspection.

4.93 Para 5.86 of the Consultation document states, “Recent NSTS figures indicate that 55% of equipment requires repair before the inspection is passed.” This figure seems high, as it is over half!

4.94 Para 5.108 of the Consultation document states, “To allow equipment that falls into either of the remaining categories to be inspected under different timetables, the Member State has to carry out a risk assessment for human health and the environment, including an assessment on the scale of use.” The risk assessment referred to would have to include in the exposure calculations, for each exposure group, all the relevant exposure factors and via all exposure routes. The same point applies for paras 5.111 and 5.112 of the Consultation document.

4.95 In the Impact Assessment for the SUD on page 146/7, para 9.28 states, “Government could choose to carry on with the current system of annual voluntary equipment inspection. However, this would not result in full compliance with the Directive as Member States cannot rely on voluntary systems to ‘ensure’ that inspection takes place; therefore this approach will not be considered further.” The UK Pesticides Campaign would just like to point out that unlike in so many other statements in the Consultation document, it is good that DEFRA/CRD has correctly recognised in the aforementioned statement that voluntary measures cannot be relied upon where there is a legal obligation that has to be complied with. Therefore this is another important recognition and the UK Pesticides Campaign welcomes it.

4.96 The table on page 147 of the Consultation document states, “Enforcement activity will take the form of an enforcement notice or warning letter.” The same is also said for Option 3 on the next page. This is weak, and it would not be much of a deterrent if there is no effective penalty for non-compliance.

Responses to Questions 13 to 16 regarding Article 8: Equipment Testing

4.97 **Question 13 asks, “What is your preferred approach and why?”**

4.98 The UK Pesticides Campaign supports Option 3 for the reasons set out above at para 4.92.

4.99 **Question 14** asks, “*Do you think a derogation from inspection should be allowed for handheld equipment and knapsacks, or, if not, should a different timetable for inspection be applied to these equipment types?*”

4.100 No and no, as the system should be consistent for all application equipment and accessories for professional use.

4.101 **Question 15** asks, “*Are there any specific types of pesticide application equipment that you think should be exempted from inspection requirements? These could include: pesticide application equipment not used for spraying pesticides (such as granular applicators or equipment for treating seeds) or equipment that represents a very low scale of use.*”

4.102 No, as the system should be consistent for all application equipment and accessories for professional use.

4.103 **Question 16** asks, “*Who do you think should deliver the inspection scheme and why?*”

4.104 Probably a Government related agency, for example, it could be done internally under HSE trained inspections specifically for this purpose. It should not be undertaken by the industry, as that would then be self-regulatory, and there would not be any independent or external checks to assess the standard of the inspection scheme.

Article 9: Aerial spraying

4.105 Recital 14 of the European Framework Directive states, “*Aerial spraying of pesticides has the potential to cause significant adverse impacts on human health and the environment, in particular from spray drift.*” Article 9, para 1, of the European Framework Directive states, “*Member States shall ensure that aerial spraying is prohibited.*”

4.106 Article 9, para 2 of the European Framework Directive states, “*By way of derogation from paragraph 1 aerial spraying may only be allowed in special cases*

provided the following conditions are met:..(e) if the area to be sprayed is in close proximity to areas open to the public, specific risk management measures to ensure that there are no adverse effects on the health of bystanders shall be included in the approval. The area to be sprayed shall not be in close proximity to residential areas.

4.107 Para 5.120 of the DEFRA Consultation document states, “*In the approval the competent authorities shall specify the measures necessary for warning residents and bystanders in due time and to protect the environment in the vicinity of the area sprayed.*”

4.108 Para 5.123 of the Consultation document states, “*The existing UK control regime is delivered through a combination of: statutory measures (risk being identified and mitigation measures imposed as part of the regulatory risk assessment and authorisation processes and Civil Aviation Authority controls)...” See earlier comments at para 2.60 in Section 2 of this submission regarding there being no mitigation measures in relation to residents exposure.*

4.109 Para 5.137 of the Consultation document states, “*Government believes that the measures identified at paragraphs 5.131-5.133 comply with this requirement.*”

4.110 Hospitals, schools and other institutions are entitled to notice of aerial spraying if they lie within 150 metres of the flight path used for the treatment. However, it should be noted that clearly the distances that the obligation is for (eg. only residents within 25 metres and hospitals, schools and other institutions within 150 metres) are completely inadequate, as the current regulatory system focuses on immediate spraydrift only and does not include the long-range transportation of pesticides in the air or any of the other exposure factors that are relevant for residents and communities.

4.111 Para 5.139 of the Consultation document under the heading “*Providing for the Option that if the Competent Authority does not respond to an application, that this shall be taken as consent,*” states, “*This is optional and the Government does not wish to exercise this option.*” The UK Pesticides Campaign welcomes this position.

4.112 Para 5.142 of the Consultation document states, *“The Freedom of Information Act 2000 and Environmental Information Regulations 1994 ensure that the public have access to these records. Details of the exact procedures for keeping and obtaining records will depend on the arrangements put in place by the competent authority.”*

4.113 The public are not able to currently access these records under FOI and EIR, as there needs to be an actual UK law in place to require the pesticide user to provide this information, as at the moment it can only be provided by, for example HSE, only with the express permission of the person who holds the information. The actual text of Article 9, para 6 of the European Framework Directive states, *“The competent authorities **shall keep records** of the requests and approvals as referred to in paragraph 4 and **shall make available** to the public the relevant information contained therein such as the area to be sprayed, the provisional day and time of the spraying and the type of pesticide, in accordance with the applicable national or Community law.”*

4.114 Therefore as discussed and agreed with Grant Stark of CRD on 20th April 2010 the aforementioned sentence in para 5.142 of the Consultation document is inaccurate as the word “*will*” is missing, as the sentence should have said, *“The Freedom of Information Act 2000 and Environmental Information Regulations 1994 **will ensure that the public have access to these records.**”*

Response to Question 17 regarding Article 9: Aerial spraying

4.115 **Question 17 asks, “What is your preferred approach and why?”**

4.116 The UK Pesticides Campaign supports Option 3 to prohibit aerial applications. Considering it has been accepted by the EU that aerial spraying has the potential to cause significant adverse impacts on human health then there should be a complete ban on aerial spraying without any derogations.

4.117 Please note that of course all the comments made in Sections 1 to 3 in this submission regarding exposure, risks and adverse impacts to residents, although predominantly related to ground spraying, equally applies the same in relation to

aerial spraying as well. Therefore the prohibition of pesticide use in the locality to residents' homes, schools, children's playgrounds and other areas where vulnerable groups or other members of the public may be present and for substantial distances applies to both ground and aerial spraying applications and must be introduced into the statutory conditions of use for the authorization/approval of any pesticide.

Article 10: Information on Pesticides

4.118 Paragraph 5.147 of the Consultation document regarding Article 10 states that, *“Member States may include in their National Action Plans provisions on informing persons who could be exposed to the spray drift”*. The PPP Regulation contains two provisions relating to providing public information on pesticide use which, ***if implemented***, could be included in the UK's Action Plan. For ease of reference, the two provisions under the PPP Regulation are dealt with separately in Chapter 6 of this document.”

4.119 It says *“if implemented”* yet as pointed out in Section 3 of this submission it has to be implemented.

4.120 As Article 10 regarding access to information appears in the SUD, in addition to access to information and prior notification being in the PPP Regulation, then it should also be dealt with under Article 10 as well. See earlier comments in Section 3 of this submission which is in relation to Chapter 6, and also see the comments above, in this section (Section 4) at para 4.3 to 4.23.

Article 11: Water protection

4.121 In the Explanatory Memorandum of the European Commission's Proposal for establishing a framework for Community action to achieve a sustainable use of pesticides it stated, *“...actual consumption and use of pesticides in the EU has not decreased within the last ten years. At the same time, the percentage of food and feed samples where residues of pesticides exceed maximum regulatory limits is not declining, but remains around 5%. In addition, certain pesticides are commonly*

found in the aquatic environment at concentrations well above the regulatory limit, and there is no sign of any decrease.”

4.122 As highlighted in Section 2 at paras 2.27 to 2.43, there are substantial external costs of pesticide use. The cost in the UK *alone* of removing pesticides from drinking water is estimated to be approx. £140 million per year.¹⁰ It costs approx. a further £4.75 million to monitor pesticides at 2500 surface and groundwater sites.¹¹

4.123 Pesticides have been shown to travel considerable distances which can result in surface water and groundwater being at risk of contamination from a number of sources. Therefore to avoid pollution of the aquatic environment substantial measures must be introduced. For example, to avoid pollution of the aquatic environment pesticide use should be prohibited in vertical crops, including orchards, vineyards, and hops that are directly adjacent to or near a water course.

4.124 Footnote 52 of the Consultation document states, “*Article 16 “means that protection of human health is also a consideration”*. Residents’ can have areas on their land and property that has surface and ground water which will be at risk of contamination from pesticide use in the locality. This could then in turn lead to further risks to residents’ health (ie. if using that water for any reason etc.)

4.125 Para 5.151 of the Consultation document states, “*in some cases voluntary measures will be insufficient and statutory measures may be necessary to deliver the required improvements in water quality.*”

4.126 **As the UK Pesticides Campaign has continued to highlight voluntary measures do not work. The industry itself has recently admitted as much, as an article in the Farmers Weekly¹² on 19th February 2010 regarding pesticides found in watercourses stated (from selected quotes):**

¹⁰ Source: Jules Pretty.

¹¹ Source: *External Costs of UK Agriculture*, Jules Pretty, 1996. (NB. As this figure is from a few years ago it may be even higher now).

¹² Article entitled “*Farmers slammed after IPU was found in watercourses.*”

- *“Farmers have been told they cannot be trusted after a banned herbicide was found in watercourses across the country”;*
- *“The findings have cast doubt over the industry’s voluntary approach to cutting pesticide pollution”;*
- *“it shows the industry can’t be trusted”;*
- *“Voluntary Initiative manager Patrick Goldsworthy said he was frustrated farmers were still using IPU”;*
- *“Anne Buckenham, Crop Protection Association director of policy, said the actions questioned the industry’s commitment to implement voluntary measures”;* she said *“As this was a regulatory control that was put in place it calls into question our commitment to putting voluntary measures in place.”*

4.127 Footnote 61 of the Consultation document: it does not say who or where these figures are from, therefore it should have been referenced.

4.128 Para 5.177 of the Consultation document states, *“there is evidence to suggest that the guidance in the Code of Practice is not as widely understood as we would wish amongst parts of the amenity sector. This lack of understanding has the potential to undermine assumptions made in the regulatory risk assessment process.”* This applies to the agriculture sector as well, and so again as per other places in this Consultation document, DEFRA/CRD has focused on problems with the amenity sector, as the Government continues to maintain that the controls in relation to the agriculture sector are adequate (which they are not – see earlier comments in Sections 1 to 3).

4.129 Footnote 64 of the Consultation document states, *“For substances still approved for use, targeting of voluntary measures will be applied to address these issues in the first instance. In some cases, extra regulatory measures may be needed. However, such action should be kept to a minimum if good practice is followed and, in any case, impact assessments will be carried out before such measures are*

introduced.” What is said in this footnote regarding “voluntary measures” does not appear to tally with what is in option 3 for statutory controls and yet this is the section it is cited in, so there appears to be an error somewhere.

4.130 Page 153 of the Consultation document states, *“Infrared treatments, the next cheapest treatment costs £180,000”* Surely steam is cheaper? As said earlier in Section 2, para 2.86, it is not clear whether steam treatments were included in the Impact Assessment considerations for alternatives to pesticides, eg. in the table on page 153?!

Responses to Questions 18 to 20 regarding Article 11: Water protection

4.131 **Question 18 asks, “*What is your preferred approach and why?*”**

4.132 The UK Pesticides Campaign supports the prohibition of the use of pesticides in vertical crops, including orchards, vineyards, and hops that are directly adjacent to or near a water course. To eliminate pollution of these areas non-chemical alternatives should be used.

4.133 **Question 19 asks, “*Do you think that government should create a power to establish safeguard zones as envisaged in this Directive, to restrict/prohibit pesticide applications? or do you think it would be preferable to impose no-spray zones as a restriction on all pesticide products? (except those specifically approved for use on river banks or in water)*”**

4.134 Please note that there are some questions that I have not had time to answer on behalf of the UK Pesticides Campaign and this is one of them.

4.135 **Question 20 asks, “*Do you support the development of the regulatory risk assessment process with a view to moving towards a system of, for example, ‘catchment-based’ approvals and/or including consideration of use of application technology?*”**

4.136 Please note that there are some questions that I have not had time to answer on behalf of the UK Pesticides Campaign and this is one of them.

Article 12: Protection of specific areas

4.137 The UK Pesticides Campaign's comments in relation to Article 12 are contained within Section 2 of this submission at paras 2.44 to 2.92.

4.138 However, just to add an extra point here in relation to Article 12(b) regarding conservation areas, pesticide use should be prohibited in special conservation areas to enable the elimination of the risks and adverse impacts of pesticides on birds, wildlife and the wider environment. As an alternative to using pesticides non-chemical and natural methods of pest management should be used in these areas. This would be more in line with the objectives for sustainable crop protection.

Article 13: Storage, handling and waste

4.139 Para 5.203 of the Consultation document states, *“and discouraging the use of retailers providing ‘buy-one-get-one-free’ offers have already been adopted. The regulatory risk assessment process regime addresses the requirement relating to products of low toxicity by ensuring that any product which requires the use of protective clothing (even gloves) is not approved for amateur use.”* Yet residents and others exposed to products of any level of toxicity **do not have any protection at all as no action has been taken by the Government to protect residents health and safety.**

4.140 The table at the bottom of page 156 of the Consultation document states, *“Assumptions: 72,000 spray operators, 20,000 of whom already member of NRoSO scheme. Assume 80% voluntary compliance amongst remaining 52,000 meaning 41,600 join schemes. Membership is £20 a year so on-going cost is £832,000.”* If it's voluntary now and only 20,000 have joined then why would the other 41,600 join if they have not done so already?! Therefore this is a seemingly flawed assumption. The same point applies to the table at the top of page 157 that says *“Assume 80% voluntary compliance, amongst remaining 48,000, meaning 38,400 join schemes.”* Again why if only voluntary and they have not joined to date?!

4.141 The same point applies again to the table for option 3 on page 157 that states, *“Assume 90% **voluntary** compliance amongst remaining 48,000 meaning 48,200 join schemes.”* Also there is an error in the wording, as I confirmed with Grant Stark that the word *“voluntary”* is not supposed to be in there as it is meant to be related to Option 3 which is for regulatory controls and not voluntary measures.

Responses to Questions 23 to 25 regarding Article 13: Storage, handling and waste

4.142 **Question 23** asks, *“What is your preferred approach and why?”*

4.143 Please note that there are some Articles and related questions that I have not had time to go through/answer on behalf of the UK Pesticides Campaign in detail and Article 13 is one of them.

4.144 **Question 24** asks, *“Do you think that take-back schemes or amnesties are an effective way of addressing the risks associated with old pesticide products/packaging that may remain in stores? Can you suggest any other suitable schemes?”*

4.145 Again I have not had time to consider this article and answer the related questions.

4.146 **Question 25** asks, *“Do you think that storekeepers should have a legal obligation to comply with standards for store design, or is it preferable to set guidelines?”*

4.147 Again I have not had time to consider this article and answer the related questions.

Article 14: Integrated Pest Management

4.148 Para 5.208 of the Consultation document states, *“Article 14 of the SUD introduces a number of requirements for the implementation of Integrated Pest Management (IPM) by all professional users of pesticides. Each Member State is required to:*

- *Take all necessary measures to promote low pesticide-input pest management, **with priority being given to non-chemical methods wherever possible.***

4.149 However, although the EU text (which the aforementioned is reflecting) clearly prioritises non-chemical methods within IPM, to date there have been many different definitions and interpretations of IPM. In any event, IPM is a system that still uses pesticides to some degree (depending on as said which interpretation one goes by). To give an example of one interpretation, the farming business growing lettuce in the fields adjoining my home in the South of England insist they use IPM. However, they spray lettuce repeatedly throughout the growing season with mixtures of different pesticides. This spraying regime is not in my view the criteria that was originally intended for IPM and therefore IPM appears to have been misused by certain parties to give the impression that practices are less intensive than they actually are.

4.150 Para 5.235 of the Consultation document states “*We anticipate that industry led activity would secure a high level of buy-in.*” (A similar line can be seen on page 179). This has not happened with other industry led initiatives such as the Good Neighbour Guide, or even judging by the earlier quotes highlighted in para 4.126 above, nor the Voluntary Initiative. Voluntary does not work however many times it is repackaged. See earlier comments in Sections 1, 2 and 3 and above.

4.151 **Considering the recognised risks and acute and chronic adverse impacts for human health, the UK Government should be promoting and encouraging the widespread adoption of non-chemical methods of plant protection and pest and crop management, rather than IPM, which as said, still uses pesticides to some degree.**

Cosmetic use of pesticides

4.152 I do not recall seeing anywhere in the Consultation document about the “*cosmetic use*” of pesticides in agriculture and horticulture. Considering surveys have shown that a certain degree of pesticide use is purely for cosmetic purposes then this should definitely have been referred to in this document. For example, a survey of 100 apple

and pear growers carried out by Friends of the Earth (FOE) and published in October 2002 revealed that “...additional pesticide sprays have to be used to meet the supermarket’s cosmetic requirements.” The FOE document states “We asked growers if the supermarkets’ appearance standards required them to apply additional pesticides for cosmetic appearance, pest control and/or disease control. More than half of respondents [20/35] said that they have to apply more pesticides to meet the cosmetic standards of the supermarkets. About half said that they have to apply more pesticides for pest control and disease control due to supermarket requirements.”

4.153 Therefore the fact that pesticides can also be sprayed purely for cosmetic purposes should have been accurately reflected in the Consultation document, and should also be included in the National Action Plan’s targets, with the aim of eliminating all cosmetic use of pesticides as soon as possible, as pesticide use which is purely for “cosmetic” purposes, is not related to any specific pests or diseases and therefore is not for pest management or plant protection. **Therefore the use of pesticides purely for cosmetic reasons is unnecessary and avoidable and therefore the UK Pesticides Campaign would propose that one of the NAPs targets should be to eliminate all “cosmetic use” of pesticides as soon as possible.**

Responses to Questions 26 and 27 regarding Article 14: Integrated Pest Management

4.154 **Question 26 asks, “In which areas do you think pesticide users would benefit from more information/advice, to help them adopt integrated approaches?”**

4.155 Information on non-chemical methods; and ensuring they are aware of the real risks and adverse impacts from the use of pesticides, see earlier comments above.

4.156 **Question 27 asks, “Do you have any thoughts on what type of written evidence/record could be provided by pesticide users (of any sector) to demonstrate compliance with IPM principles?”**

4.157 Please note that there are some questions that I have not had time to answer on behalf of the UK Pesticides Campaign and this is one of them.

Article 15: Indicators

4.158 The national indicators must be in relation to both the health and environmental risks and impacts of pesticide use. There also must be, as detailed earlier in relation to Article 4, public participation in the development, setting, workings and amendments of national indicators, to be in line with the spirit of Directive 2003/35/EC providing for public participation. I do not have time to provide more comments regarding indicators.

Response to Question 28 regarding Article 15: Indicators

4.159 **Question 28** asks, “*What is your preferred approach and why?*”

4.160 Again I have not had time to consider this article in detail and answer the related question.

Miscellaneous

4.161 The table on page 138 of the Consultation document: there is no cost for Farmers and Growers under option 3 but is for option 2, is this right or is it an error as it means there are no costs for farmers and growers for Option 3?!

4.162 Para 1 of Article 4 in the EU text states, “*These targets may cover different areas of concern, for example worker protection, protection of the environment, residues, use of specific techniques or use in specific crops.*” Considering that there is currently no exposure and risk assessment for residents and following the previous significant exceedances of the AOEL that were identified when some *limited* additional exposure estimates were carried out for residents exposure then the Government should:

- produce an adequate assessment of the risks to residents that includes in the exposure calculations long-term repeated exposures over many years from all exposure factors and via all exposure routes;

- review all existing authorizations, and in particular all existing conditions of use in such authorizations, granted by the Government so as to ensure those authorizations are within the AOEL for a residents specific exposure scenario;
- ensure that no pesticide product is or remains authorized for use unless it has been established, on an adequate assessment of the risks to residents, to have no harmful effect on human health, where such harm does not mean no “serious” harm but means any adverse effect.

I apologise for the incomplete sections and the very rough note form for some of this section. If you require any further information on the comments made and information provided in any of the UK Pesticides Campaign’s submission please contact me at the details listed below.

Thanks and kindest regards,

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