Commission Directive (EU) 2016/2037 of 21 November 2016 amending Council Directive 75/324/EEC as regards the maximum allowable pressure of aerosol dispensers and to adapt its labelling provisions to Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures (Text with EEA relevance)

COMMISSION DIRECTIVE (EU) 2016/2037

of 21 November 2016

amending Council Directive 75/324/EEC as regards the maximum allowable pressure of aerosol dispensers and to adapt its labelling provisions to Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 75/324/EEC of 20 May 1975 on the approximation of the laws of the Member States relating to aerosol dispensers[(1)], and in particular Article 5 thereof,

Whereas:

(1) Directive 75/324/EEC lays down rules for the placing on the market of aerosol dispensers. It harmonises the safety requirements for aerosol dispensers, including the requirements relating to the nominal capacities, filling and other pressure hazards and labelling requirements of aerosol dispensers falling within its scope and placed on the market under the provisions of that Directive.

(2) Technical progress and innovation led in the recent years to the development of aerosol dispensers with innovative non-flammable propellants, mainly compressed gases as nitrogen, compressed air or carbon dioxide. However, the current maximum allowable pressure of aerosol dispensers provided for by Directive 75/324/EEC limits the development of aerosol dispensers with non-flammable propellants as it negatively affects the spray effectiveness of such aerosol dispensers throughout their lifetime. More particularly, the drop of pressure of such aerosol dispensers during their use results to a less efficient yield of contents and to a noticeable deterioration in their performance.

(3) Commission Directive 2008/47/EC[(2)] increased the maximum allowable pressure of aerosol dispensers with a non-flammable propellant from 12 to 13,2 bar, which was at the time the maximum pressure limit allowing to guarantee safety. However, further technical progress and innovation makes possible a new adaptation of that limit without affecting the safety of those aerosol dispensers. It is therefore possible to allow a new increase in order to improve the delivery rate and the spray quality of such aerosol dispensers placed on the market, providing thus a wider and more effective choice to consumers.

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(4) The increase in the allowable pressure of aerosol dispensers with a non-flammable propellant would provide a wider choice for manufacturers and thus the possibility to use such aerosol dispensers for more applications. It would therefore allow to switch as far as possible from flammable to non-flammable propellants, improving thus the efficiency and the environmental performance of aerosol dispensers and guarantee at the same time the current safety levels provided for by Directive 75/324/EEC.

(5) Regulation (EC) No 1272/2008 of the European Parliament and of the Council[(3)] provides for the harmonisation of the classification and labelling of substances and mixtures within the Union. Although the labelling provisions of Directive 75/324/EEC have already been aligned to that Regulation by Commission Directive 2013/10/EU[(4)], a further adaptation is necessary so as to take into account the subsequent modifications provided for by Commission Regulation (EU) No 487/2013.[(5)] It is therefore appropriate to increase legal clarity and coherence with the labelling requirements of Regulation (EC) No 1272/2008 without however imposing any new obligations.

(6) Directive 75/324/EEC should therefore be amended accordingly.

(7) As the increase of the maximum allowable pressure of aerosol dispensers with non-flammable propellants would not result to any new obligations for manufacturers but it only provides for an additional option in case of use of non-flammable propellants, it is not necessary to provide for a transitional period.

(8) It is necessary to ensure that the new legislation applies as from the same date for all Member States, independently of the date of transposition.

(9) The measures provided for in this Directive are in accordance with the opinion of the Committee on the Adaptation to Technical Progress of the Directive on aerosol dispensers,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 75/324/EEC

The Annex to Directive 75/324/EEC is amended as follows:

(a) Point 2.2 is replaced by the following:

2.2. **Labelling**

Without prejudice to Regulation (EC) No 1272/2008, each aerosol dispenser must visibly bear the following legible and indelible marking:

(a) where the aerosol is classified as ‘non-flammable’ according to the criteria of point 1.9, the signal word ‘Warning’ and the other label elements for Aerosols Category 3 provided for in Table 2.3.1 of Annex I to Regulation (EC) No 1272/2008;

(b) where the aerosol is classified as ‘flammable’ according to the criteria of point 1.9, the signal word ‘Warning’ and the other label elements for