

Tolerances Omnibus - Declared value vs. limit value

Brussels, 31 March 2016

We welcome the Commission proposal on the exclusive use of tolerances in verification procedures aiming to support Market Surveillance Authorities (MSA) in determining wrongful claims. It is crucial to ensure fair competition and a level playing field for all economic actors.

However, we are extremely concerned that the changed wording from limit value to declared value would imply that previously compliant products might be incorrectly determined as non-compliant, despite being below the required limit values. While streamlining the terms used in Regulations¹ is needed, we highlight potential unintended consequences hereof below.

A case in point is the proposed change to Annex III of Regulation 1275/2008:

- “For power consumption requirements above 1.00 W ... The determined value shall not exceed the declared value by more than 10 %”
- For power consumption requirements less than or equal to 1.00 W... The determined value shall not exceed the declared value by more than 0.10 W.

In both cases the declared value cannot vary more than 0,1W. Whereas before, manufacturers are considered compliant so long as the power consumption is below the limit value of 1,0W, non-compliance might now occur even while products are below the limit value of the implementing measure in question. For example, a product with a declared 0.8W in standby would be non compliant if a MSA measures 0.92 W, despite being below the limit value of 1 W. Would a manufacturer have to take it off the market, receive a fine of the same level as a manufacturer who placed a product on the market with 20W standby? Even though from a green claim perspective it makes sense to apply verification tolerances to any proposed declared values to ensure consumers are not inadvertently misled through preference of declared values that are not met, the eco-design implementing measures mandate a minimum market entry performance standard. The verification procedure should mirror this requirement.

We firmly believe that products should be considered compliant with the market access conditions as long as they perform below the limit value in a given Ecodesign implementing measure and therefore ask you to reconsider the proposed change from limit value to declared value, or at a minimum clearly differentiate consequences for not complying with the limit value within a given tolerance range vs. having a declared value

¹ We notice that some Regulations (e.g. Energy Label directive EC/1062/2010) already refer to ‘declared value’, while others (e.g. EC/617/2013) refer to ‘limit value’ or both

not verified within a given tolerance range but still within the limit value. We would also seek clarification on what is deemed to be a declared value noting that in some Implementing Measures the manufacturer is required to provide “information” via a publicly available website?

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