

EU Energy Efficiency Labelling Framework Regulation – Key messages for delegated acts and comments regarding the draft proposals

Background

Since August 1st 2017, there is a new [EU Regulation setting a framework for energy labelling](#), simplifying and updating the energy efficiency labelling requirements for products sold in the EU (EU Regulation 2017/1369 - replacing Directive 2010/30/EU on Energy Efficiency Labelling Directive).

EuroCommerce supports the EU energy label as an easily understandable tool for consumers to purchase increasingly energy efficient products, and we welcome the simplification the new Regulation brings.

We have constructively worked with policy makers throughout the legislative process to ensure workable outcomes for our sector *and* effective implementation of the Regulation. We are pleased with solutions such as, for example, the possibility to continue to sell products in stock for which no labels are made available by suppliers that went bankrupt or no longer serve the EU market.

In order to address **outstanding issues and concerns**, it will be key **to find solutions that are ‘fool proof’, i.e. workable, cost-efficient, flexible and allowing for sufficient time to implement**. Such solutions will have the largest chance to result in effective implementation and enforcement of the Regulation, and with that, achieving its very goals.

We welcome the opportunity to continue to work with legislators and other stakeholders on the delegated acts and the development of the database. This paper includes in the first part our key messages regarding the issue of energy labelling and in the second part our comments regarding the four draft proposals for energy labelling of household refrigerators, household dishwashers, lighting products and household washing machines and wash-dryers, which were presented in the Eco-design Consultation Forums in December 2017.

Key messages

We have recommendations on **a number of specific issues**:

1. How to provide the printed label and the product information sheet

The standard procedure for providing the label should be by **including it in the packaging** of the product, in printed format, as is also stipulated by the Framework Regulation. This is the simplest way to ensure dealers have the energy label at hand when they display a product at the point of sale.

In order to meet the needs of different retail formats, e.g. small shops without exhibition models, and in the special case of small sized products like lamps, it should also be **permitted to print the energy label onto the packaging**.

2. In-store placement of the label

There is a need for clarity on *which products* need to be labelled. Rather than labelling every single unit (including packed ones) visible to consumers, we recommend labelling the product that is on display (display unit) only. In our experience, there are right now diverging interpretations by the market surveillance authorities in different Member States. It is important to recognise that there is a wide range of different retail formats in the market and that each format uses a different approach to display the goods for sale. In some stores products will be offered for sale in their packaging, e.g. boxed vacuum cleaners on a pallet.

Some national authorities are of the opinion that every unit visible to the customer, even the packaged units, need to bear the energy label. This forces retailers to open every single box to access the energy label contained therein, which significantly affects the sales value of the product.

We are looking for a clarification that it is sufficient to label the display product and it is not required to attach a label on every packaged product that is visible in the point of sale. This is a pragmatic approach for dealers, which still ensuring that consumers receive the necessary information in the appropriate setting.

It is of course important that retailers place the label at a spot that is clearly visible to consumers. It is equally crucial, however, that they do this without damaging the product, packaging, or presentation of the product. Based on experience in our sector, current provisions in implementing product regulations on where the label should be placed are overly strict. The labels are often difficult to take off, a process possibly damaging the products. This is for example a problem for products such as refrigerators, tumble dryers, ovens and partially or fully integrated built-in kitchen appliances. To give an example of this latter category, the application of the label 'on the front' means it is placed on the panelling of the kitchen, which is made of mainly wood or wood materials and foiled or lacquered. When removing the label, this most likely also damages the foil or lacquer and causes colour deviations due to ultraviolet radiation.

On top of being overly strict, further experience in our sector shows that the ambiguous wording used in the delegated acts results in national authorities interpreting the delegated acts incorrectly to such an extent that they require retailers to damage the products by gluing the label onto the product. For example, the Dutch inspection authorities (*Nederlandse Voedsel- en Warenautoriteit*) interpret the translation of "bears the label" as "fixed on", i.e. **the label should be glued to the product**.



Example of label placed directly on a TV screen

This means that if the current, ambiguous wording in the draft delegated regulation is not improved, retailers **either risk unnecessarily damaging their displayed goods, or risk to be fined by overly zealous inspection authorities**. Implementing **one** of the following suggestions should prevent this problem across member states.

- **Specify what is meant by “bears the label”**, i.e. the label may be attached to, or hanging from the product. This could be done by inserting “or hung on it” (see [Delegated regulation No 665/2013](#), art. 4(a)) or expressed by “Is accompanied by”.
- Use the provision in the framework Regulation (EU) 2017/1369, art. 16(3)(e) that sets that the delegated acts should specify the **“locations where the label shall be displayed, such as attached to the product unit where no damage is caused to it”**.
- Include in the delegated acts the possibility for the different appliances to be **“accompanied by the label [...] displayed on the front or top of the appliance, or in in close proximity of the product”**.

Requiring retailers (“dealers”) to glue a label onto the product goes beyond what is needed to achieve the aims of the Directive (and new Regulation). This is especially true considering that for some product groups, the delegated regulations allow the label to be placed “in close proximity”.

3. Design of the energy label

In order to minimise the margin of error during the **relabelling of products following a rescaling**, there is a need to ensure that retailers can **easily differentiate between old and new labels** (for example by different colours or specification of year). This is key to avoid the risk of mislabelled products in the stores due to sales staff mixing up the labels. Finally, we recommend that requirements for the design of the energy label should be consistent across the board.

4. Online use of the label

Experience in our sector shows that the existing provisions on the use of the energy efficiency label in distance sales (including e-commerce) are difficult to implement. Retailers have the option to either show the label in full or to use the ‘nested label’, always in proximity to the price of the product. In this latter case, the full label should show upon mouse-over or click. In practice, from a technical point of view, it is hard to correctly integrate the image of the nested label (shown below) in the IT-structure of the website of a web shop. The requirement to show the label near to product prices creates another difficulty. In practice this means showing the label in sections such as ‘last viewed’, ‘interesting for you’ or ‘daily offers’. Making sure the labels are correct and updated continuously everywhere is a large administrative burden.



The nested label

As is the case in physical stores, before buying, consumers have been able to inform themselves about the energy class of the product they intend to buy. For online sales, this info is included in product pages, or possibly on pages from where consumers can add products in their shopping basket. This will reduce administrative burden and create a much better user experience for consumers. It will also help ensure proper implementation of the Directive among retailers.

Furthermore it is important that the delegated acts take a **consistent approach** regarding the display

of the energy label in online shops for all product groups. Dealers and operators of online shops cannot be expected to adapt **the way energy labels are displayed in the online shop depending on the type of product offered for sale**. Technically and administratively, this would result in excessive burdens for dealers, without having any added value for customers or market surveillance authorities.

5. Relabelling of products

The new framework Regulation and its implementing acts require dealers to relabel products, which entails replacing the 'old' labels on products displayed at the point of sale by the new -rescaled- labels.

While only products on display will need to be relabelled, this is particularly problematic (and not very useful) for small-sized products such as lamps. Lamps are individually packaged, with the energy efficiency label printed on the packaging. They are often on display in large numbers and kept in stock in even larger numbers. As we have already discussed as part of the legislative process for the Framework Regulation, to relabel (or repackage) each individual lamp would be very time- and cost-consuming for retailers.



Separate lamps on display with label printed on packaging

To limit the burden, **special provisions should be made for relabelling in the relevant delegated acts for specific product categories, such as for lamps**. The most practicable solution for lamps is to give sufficient time to retailers to sell off old stock, until the suppliers have printed the new label on the packaging. The European Commission has already recognised the need for such a pragmatic and workable solution to be included in relevant delegated acts on specific product groups.

6. Database

On uploading information, this is primarily the responsibility of manufacturers. In cases where both producer and importer upload the same product yet with a different brand name (e.g. private labels – own brands), this product should appear as two different product types. This is necessary to ensure the tool does not lead to reduction of competition in the market.

Given that confidential and commercially sensitive information would be uploaded to the compliance interface of the database, **access should only be granted to enforcement authorities (Commission and Member States)**. It appeared that under Regulation (EC) No [1049/2001](#) regarding public access to European Parliament, Council and Commission documents, NGOs have already requested access to certain confidential information from companies. For this reason, the Commission should make sure

that under no circumstances any actor, including NGOs, will be able to gain access to commercially sensitive information using the aforementioned Regulation.

7. Communication campaigns

Also, it is paramount that the communication campaigns on the scheme make it clear for the consumers, that the **new label is the result of a change of scale not a change of energy performance**. A failure to do so will inevitably confuse consumers. Therefore we would like to encourage the European Commission **to include this point in the recommendation of common key messages**, which the Member States will receive in order to support them regarding the educational and promotional information campaigns on energy labelling.

Comments regarding the draft delegated regulations with regard to energy labelling of different product groups

We welcome the opportunity to comment on the draft delegated regulations for energy labelling of household refrigerators, household dishwashers, lighting products and household washing machines and washer-dryers. Because we have only a limited amount of comments to make, we would like to present our remarks together in this document:

1. Draft Delegated Regulation with regard to energy labelling of household washing machines and washer-dryers

We appreciate the announcement of the European Commission at the Eco-design Consultation Forum on 18 December 2017 to follow the recommendation of the Member States and the Stakeholders to delete the provisions in Article 3(1) (a) and Article 4(a) to create an additional energy label for washer-dryers.

2. Placement of the energy label for partially or fully integrated built-in kitchen appliances (refrigerators, washing machines and dishwashers)

EuroCommerce welcomes, that the European Commission has clarified at the Eco-design Consultation Forums in December 2017, that the wording “bears the label” in the articles about the obligation of the dealers in the proposals provides the retailers with the flexibility to use other measures (e.g. to hang a printed paper label onto the product) than sticking or gluing to display the energy label on top or on the front of the product.

While the flexibility is welcome, the wording “bears the label” is ambiguous enough for it to be wrongly translated/interpreted. Therefore we would like to ask the European Commission to further clarify this point by adding an enumeration of the possible ways the label can be placed. For example, by changing the wording to “each appliance at the point of sale bears the label which may be either hung, fixed to the price tag, looped around, glued, attached, [etc.]”.

In our opinion another solution would be also a more flexible wording like “each appliance at the point of sale is accompanied by the label in close proximity to the product” or reciting from the framework regulation that the label is attached to the product in such a way that “no damage is caused to it”.

3. Draft Delegated Regulation with regard to the energy labelling of lighting products

- a) Annex V 3.2. (b) of the draft delegated regulation spells out an information requirement for the packaging of products that contain a light source. The European Commission has clarified at the Eco-design Consultation Forum on 7 December 2017 that this information on the packaging does not have to be changed or updated following a rescaling of the energy efficiency classes. EuroCommerce supports this interpretation, which represents a pragmatic solution for dealers.
- b) According to article 9 (4) of the draft delegated regulation dealers have to replace all existing labels on products on display at points of sale by the rescaled labels within 30 days. While we recognise the willingness of the European Commission to apply a flexible approach, a transition period of 30 days is insufficient in the case of lighting products. Lighting products are a special category of products, because of the high number of products in the market. In 2015 around 1.7 billion light sources were sold in the 28 Member States of the European Union and, for example, at any given time a large German retailer has 600.000 light sources in its stores and another 3 million in the warehouses. To request a retailer to relabel over 3 million packages from a wide range of different brands and of different varieties constitutes a significant burden and may constitute an unworkable task for many. Therefore, retailers should be allowed to sell of existing stock or as a minimum, have sufficient time to attach a sticker with the rescaled energy label on every lighting product in stores and warehouses - at least 9 months.
- c) Furthermore, there appears to be an error in article 9 on the entry into force and application of the delegated regulation. The obligation of dealers to replace existing labels on products on display by the rescaled labels should apply 30 days after the date given in article 9 (2) ("XXXX"), instead of 30 days after the date of entry into force.

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