

**PROPOSAL FOR A DELEGATED REGULATION
ON ENERGY LABELLING REQUIREMENTS FOR LIGHT SOURCES
- COMMENTS OF INDEPENDENT RETAIL EUROPE -**

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EXECUTIVE SUMMARY

Independent Retail Europe supports the new EU Energy Label. However, in order for it to be effective and clearly understandable for the consumer, an efficient and well-functioning relabelling system is indispensable.

For this to be achieved, the respective delegated acts have to properly complement *Regulation (EU) 2017/1369 setting a framework for energy labelling* (hereafter referred to as “the Framework Regulation”). We believe that some elements of the draft *Delegated Regulation supplementing Regulation (EU) 2017/1369 of the European Parliament and of the Council with regard to energy labelling of light sources* (hereafter referred to as “the draft Delegated Regulation”) the established, relatively well-functioning regime and therefore risk leading to legislative uncertainty and the development of overly complex rules that would create additional burdens on the retail sector and the millions of SMEs therein.

Please find below our comments as regards the following points:

- ➔ Position of the label
- ➔ Relabelling
- ➔ Display of the label in distance sales and advertising materials

COMMENTS ON THE PROPOSED DELEGATED REGULATION

General labelling obligations of dealers

Position of the label (Art. 4.1. (a))

Independent Retail Europe supports the formulation in Art. 5. 1. (a) of the Framework Regulation that dealers “**shall display...**[the label] **in a visible manner**” because it allows for flexibility.

The draft Delegated Regulation currently all requires dealers to ensure that each product “**bears the label provided by suppliers**” (Art. 4.1. (a)). This is fine for the case of lighting sources where the label is usually printed directly on the packing. However, for reasons of legal certainty and consistency, the formulation of this particular provision should be equivalent with the Framework Regulation and all draft delegated acts.

The Annex of the Delegated Regulation on lighting sources further specifies that the “**label shall be attached or placed in close proximity to the packaging, making it clear which product the label refers to...if the packaging is too small to accommodate the standard size label**” (Annex III Art. (4) (b)).

Independent Retail Europe supports this formulation and the flexibility it allows for. A dealer should in certain cases be able to place the label on a stand next to the product in question; rather than directly on the product. This becomes especially important in the event of rescaling of a lighting source (see section below).

- ➔ **The delegated acts have to be consistent with the Framework Regulation and leave no room for misinterpretation.**
- ➔ Independent Retail Europe supports the possibility of a label being “**attached or placed in close proximity to the packaging**” Annex III Art. (4) (b)

Re-labelling of products already in store (Art. 4. 1. (e))

The Framework Regulation as well as the draft delegated acts foresee that whenever an energy label is revised, dealers would have to remove/cover up the old labels from all the relevant products that they have in stock and replace them with the new ones. This is a clear change from the existing rules where dealers have to place the label only once, when they have received it together with the product from the manufacturer/supplier. Indeed, in the case of light sources, the label is very often printed on the single packaging.

As established by the Court of Justice of the European Union’s in its judgement *Udo Rätzke v S+K Handels GmbH* (C-319/13), **the obligation to add a new label to a rescaled product would create a disproportionate administrative burden for suppliers and dealers, in particular for SMEs.**

While the obligation to relabel products constitutes a significant burden for every product group, it would be simply impossible for light sources, especially in the 30 day period as proposed by the draft Delegated Regulation (Art. 9 (4)). One example: A medium to large-sized retailer usually has around 3 million light bulbs in stock, 600 000 on the shop floor. A re-labelling of these 3.6 million light bulbs from different brands and of different variety within a 30 day period would be a tremendous burden, if not completely impossible for many retailers.

Dealers should therefore not be obliged to re-label existing lighting products. Retailers should be allowed to sell the products they have in store with the old label printed on the product. It should be sufficient to **display the new, rescaled label for a group of products in close proximity to the respective products**, e.g. in the format of a promotional poster. The solution of displaying the label “*in close proximity of the packaging*” would also be much more visible for the consumer and is already proposed in Annex III Art. (4) (b) to the draft delegated act for situations where the “*packaging is too small to accommodate the standard size label*”.

Should the new rules nevertheless make re-labelling for light sources a necessity, a 30 days’ timeframe to re-label as proposed by the Commission would make it simply be impossible for SME retailers to comply with the rules. Independent Retail Europe therefore asks for this **period to be extended to 9 months.**

- ➔ **The obligation for dealers to re-label all light sources already in store would create an immense administrative burden** for groups of independent retailers.
- ➔ It should be sufficient for retailers to **display the new, rescaled label for a group of products in close proximity to the respective products**, e.g. in the format of a promotional poster.
- ➔ **If re-labelling is the only option then its deadline should be extended to 9 months.**

Display of Energy Label in Distance Selling (not including internet sales) and in Advertising

Independent Retail Europe supports the idea of unified set of rules which specify the labelling obligations of producers and dealers. Consumers should have clear information about the energy efficiency of products.

Concerning non-internet distance selling– the respective Annexes of the Delegated Regulations on white goods provide for a display of the energy class and the range of available efficiency classes in form of an arrow sign. In addition, it must be possible for the customer **“to access the full label and the product information sheet through a free access website, or to request a printed copy”** (Annex VII, Art. 1 receptively).

We believe the mentioned **“free access website” should be clarified as the product data base pursuant to Article 12 of the Energy Efficiency Framework Regulation**. Retailers should not be obliged to install their own webpages with the respective content, which would result in a significant financial and administrative burden for SME retailers. A link to the product data base in the print medium should be sufficient.

As retailers are already obliged to present the product in a comprehensive way, i.e. adding the product’s type description to any presentation, the research of the respective product in the product data base would be quite easy. Furthermore, the information on the central product data base will be genuinely correct. The danger of presenting wrong or incomplete information – in cases retailers would have to create their own homepages – could be reduced to a minimum. Finally, the product data base should become a central means of information for customers. For this reason it should be made use of in any possible way – including the linking in distance selling material.

As a general remark, **retailers should be given the opportunity to present the energy efficiency class and the respective scale in writing** (energy efficiency class X in a scale form A to Y). Limiting the means of presentation to the proposed pictogram would impede the entrepreneurial freedom of marketing. In addition, the duty to provide for a link to the product data base would be maintained in these cases, too. The consumer thus would have the possibility to acquire all the information he needs for his purchase decision.

For the reasons mentioned above, **presenting the energy class and the respective range of available energy classes in writing should be also possible in any visual advertisements and other promotional material**, which should be specified in Annex X of the respective Delegated Regulations

- ➔ **Retailers need to have a margin of discretion of how to present the products** and present information to the consumer
- ➔ **For non-internet distance sales, retailers should not be obliged to create their own “free access website”** in order to provide consumer access to the full label and the product information sheet. **A link to the centralized product data based should be sufficient.**
- ➔ For advertising as well as non-internet distance sales, **retailers should be allowed to display the energy class and the range of available energy classes** for the respective product in writing.

Established in 1963, **Independent Retail Europe** (formerly UGAL – the Union of groups of independent retailers of Europe) is the European association that acts as an umbrella organisation for the main groups of independent retailers in the food and non-food sectors.

Independent Retail Europe represents retail groups characterised by the provision of a support network to independent SME retail entrepreneurs; joint purchasing of goods and services to attain efficiencies and economies of scale, as well as respect for the independent character of the individual retailer.

Our members are groups of independent retailers, associations representing them as well as wider service organizations built to support independent retailers.

Independent Retail Europe represents 23 groups and their over 369.000 independent retailers, who manage more than 591.000 sales outlets, with a combined retail turnover of more than 946 billion euros and generating a combined wholesale turnover of more than 288 billion euros. Together they employ more than 6 million persons.

More information about Independent Retail Europe under www.independentretaileurope.eu