Final minutes

1st meeting of the Ecodesign Consultation Forum Sub-Group "Compliance" for the European Product Registration Database for Energy Labelling (EPREL)

Brussels, 24 October 2017 (14:00 – 17:30)

Participants: See “Attendance List” in Annex

1. WELCOME AND PRESENTATION

The Chair welcomed the participants and introduced the topic. He recalled, in particular, that one of the three primary objectives of Regulation 2017/1369 is to support market surveillance authorities in carrying out their tasks, including enforcement, efficiently and effectively. For this reason the Commission is asking MSA experts for their support and experience to create a database that is fit for their purposes.

2. ADOPTION OF THE AGENDA

The agenda was adopted without changes.

3. SLIDES PRESENTATION AND DISCUSSION

The chair recalled that the public portal will be a kind of one-stop-shop for all matters related to ecodesign/energy labelling, a key part of which will be the access to the database. The interface will be structured so as to fit the needs of different visitor categories, including 1) citizens (with multilingual information on the labels and relevant aspects to orient consumer choice towards more efficient products), 2) professionals (all stakeholder categories, including links to the relevant legislation, measurement standards, preparatory work, guidelines, etc.) and 3) specific categories, such as retailers and/or researchers (for printing labels and information sheets, extracting data for statistical analysis, etc.).

The EC provided a presentation where the system architecture was illustrated from a general perspective, highlighting the system components of the public part and of the compliance part.

Several "questions" were presented to participants on aspects where the legislation does not provide sufficient implementation details and different options would be possible.
In the ensuing discussion the following points were raised:

ANEC/BEUC asked if consumers will be able to consult the database or if apps will be necessary.

NL and UK asked to confirm that it will be possible to download full lists of products from the public portal.

The chair confirmed that the portal should have at least basic functionalities to facilitate users experience but details will be discussed in future meetings.

CECED recalled the difference in downloading capabilities between the compliance and public part, as Article 12(8) of Regulation 2017/1369 mentions that data access to the compliance part should be limited to prevent copying large data sets.

EHI suggested that some products are country-specific because they are not allowed to be sold in certain countries due to national legislation and required certification so the country of availability of a product should be specified, although this is currently not required by the delegated acts in force.

ORGalIME asked clarifications about security aspects (e.g. leakage of data, 2-step authentication, login notification), the liability for the data entered and liability for not entering the data.

IT suggested a disclaimer about the use of the data once extracted from the database. Regarding non-declaration, indeed the database is useful for spotting missing data or entire declarations.

CECED asked about the language availability in respect to the country from where the portal is consulted.

AT asked about implementation of security mechanisms, such as limitations based on IP addresses.

The Chair recalled that the portal will be part of the Europa web site and, consequently, the same language preferences in the user profile for the browser and language menus will be available. On security aspects, the state of art will be used and specific legislation is already in force and applied to a number of other databases and information systems that the EC manages. The chair clarified that the EC is responsible for maintaining the portal and the database, its security and availability, but the supplier is responsible for the declared data and the declaration is mandatory. Finally, a new implementing act may indeed be necessary to set specific different formats and information requirements to fully exploit the functionalities that a database can offer.

NL intervened on the link between EPREL and ICSMS proposing that a link at model level should be enough at the start. To do that, products have to be identified in the same way in ICSMS as in EPREL.

DE emphasized that ICSMS is an essential tool for MSAs. A seamless switch between the two platforms should be envisaged, avoiding double data-entry. Cross-border collaboration will highly benefit and the ICSMS user management scheme should be replicated/merged.
IT highlighted that there can be different levels of non-compliance (e.g. on the public information provided or simply on the documentation), so a "non-compliance" indication in a public interface should indicate this distinction. The date of end-placing on the market for a non-compliant product should be set as result of non-compliance.

BE, supported by NL, proposed to minimise the information in EPREL, because ICSMS was made on purpose to collect detailed compliance control information.

EC (DG GROW) indicated that not all MS are making use of ICSMS. EC (ENER) confirmed that entries of EPREL and ICSMS should be bidirectional as non-compliance involves a specific way of visualising a model (only retrievable by entering the specific identifier and indication that should be not on sale).

DE recalled that use of ICSMS is mandatory for MSAs. The work should not be duplicated and ICSMS is the primary tool for storing compliance control reports. There should be a flag in EPREL indicating that for a specific model, compliance control data had been entered in ICSMS. Experience shows that temporary solutions have a long life. The midterm goal should be to have seamless integration.

On MSA registrations, EC proposed that registration could be by invitation. The EC would invite the top admin and the top admin should invite other admins, and so on. Self-registration should be not allowed. EC services responsible for EPREL and for ICSMS will collaborate to facilitate integration.

BE, supported by DE, suggested to mimic ICSMS for user profile creation. If a user can work for different MSAs or on different roles, then different email addresses, each for each role should be associated.

UK requested not to use the same ICSMS contact for EPREL for the UK.

FR signaled that the Regulatory Authority is not the same as the Market Surveillance Authority in France.

DIGITAL EUROPE asked about users no longer working for an MSA.

EC (GROW) confirmed that MSAs themselves can remove profiles. Additional checks can be put in place, such as a control of how long a user profile was not used, and sending an alert before the user is disabled.

NL, reacting to the questions on slide 10, clarified that placement on the market and models availability on the market are different. MSAs need to have access to all the data, irrespective of the country where the supplier is liable or the countries where the product is placed on the market.

IT, on the EC question if "country of the supplier is relevant for liability" indicated that multiple cases are possible. Regarding the notification of the MSA, it is more important when the product is modified, not when the product is created as there can be lots of products created per day. Often the technical documentation is not sufficient and additional documentation needs to be requested. As the indication of the country where the product is placed on the market is not mandatory, the success of entering the field depends of the supplier perceiving this field as useful.
BE indicated that MSAs should have access to all products in the DB, although some MSAs might work for specific regulations. The country information of a product is nice to have but suppliers have really no control on that. Actions should be done in ICSMS; minimal info should be on EPREL (e.g. Compliant / Not compliant). The conditions of notifications should be configured by the user.

NL, DE and BE asked for notification criteria to be configurable by the user.

DE suggested a search criterion on suppliers' postal codes to search for suppliers in the MSA area.

DIGITAL EUROPE asked to clarify what would happen if a leakage occurs before placing on the market happens and where can a complaint be filed? For this reason no sharing of information with MSAs should happen before the date of placement on the market.

NL and UK agreed that MSAs should not need to access to the data before the date of placement on the market. Regarding the access log, it is difficult to distinguish between a consultation and an inspection, however after that moment, the supplier should see if MSA accessed its data.

UK agreed that MSAs have no need to have access before placement on the market.

CENELEC signalled that standards versions are important. How can we know if a manufacturer changed the standard used for doing measurements? If the measurement is changing, that information should be updated and known.

NL recalled that the standard should be published on the Official Journal. Which version of the standard is used is part of the technical information for each registered product model.

BE expressed doubts about legal aspects for giving access to data to the MSA before the placing on the market. It seems interesting to have a flag in case there is an inconsistency detected or if a model is changed after the date of placement on the market. Log data should be available (e.g. by using a button).

CECED considered that if the standard changes, a product can be placed on the market a 2nd time after the new tests and wondered how this aspect will be managed.

EC (ENER) stated that before placing on the market, the supplier can change anything in the entered data. After that date all changes will be logged. If changes affect the product fiche or the label, the system will warn the user that he has to create a new product. If the supplier confirms the changes, the reasons must be provided (e.g. error in the first place).

The Chair confirmed that everything will be logged from the date of placing on the market but asked stakeholders' views about what should be disclosed and how (i.e. directly or upon a justified request)?

DE questioned whether disclosure of the user accessing compliance data is related to the authority or the inspector.

BE agreed with the UK that suppliers should know which MSAs are working on their products and it should be no problem to disclose inspectors.
IT, supported by UK, on the question "if the supplier should be indicated as an importer, manufacturer, or authorized representative, suggested that the same user can have multiple roles and no distinctions should be necessary.

BE instead, indicated that the information may be useful in specific situations. A search of suppliers on "postal code" would be extremely useful as well.

NL suggested that all suppliers contact points should be in the technical documentation and should be specific for compliance needs (and may be different from the contact point in the public interface).

IT, on the question "should documents be provided at least in the language of the country where the supplier is liable?" suggested that there is no legal answer but the practice shows that compliance documentation is often in EN. MSAs ask for technical documents and usually they are received in EN. MSAs ask translation if it is needed. IT believes that technical documentation data does not need to be structured: the supplier has to upload the results of the tests but the MSA may ask for the complete tests documentation, in case of inspection. It has to be noted that data in a pdf could be different from data in a form (e.g. rounding of numbers) and this may trigger an additional issue of non-compliance.

EHI agreed with IT on the languages according to common practice, compliance documentation is available in one EU language and suggested to start working on complex products such as "space and water heaters" in order to sort out all implications and issues.

NL agreed with IT as regards the language of the technical documentation. However NL was in favour of a mixed approach (structured data and documents) as some Regulations already require data provision in structured tables. NL suggested that mandatory data structure could be regulated via delegated acts (e.g. Regulation reviews).

DE suggested a legal check as the language of the documentation may also depend on the supplier, i.e. an importer depends on the documents obtained from the manufacturer. In general "any EU official language" should be acceptable and considered compliant.

BE, taking into account the current practice, suggested just a minimal requirement: understandable language and openly readable electronic document format.

EC presented the planning of future steps (slide 26), including dates for meetings provided meeting rooms will be available. Once all consultations are over, a sandbox will be made available to suppliers to start testing.

Lighting Europe asked about the precise terms and conditions to use the database and the date of release of such specifications.

Digital Europe expressed their concern in case the sandbox is not delivered on time and suppliers do not have the necessary time to develop internal procedures and applications for uploading the data, undertake testing, signal bugs, have them fixed, etc..

CECED proposed to organise sectoral technical meetings to discuss detailed aspects by product group.
The Chair replied that the EC will organise sectoral meetings as soon as the modules are ready.

ANNEX I – Attendance List

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