



EUROPEAN COMMISSION

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Dear President,

The Commission would like to thank the Bundesrat for its Opinion concerning the proposal for a Regulation of the European Parliament and of the Council setting a framework for energy efficiency labelling and repealing Directive 2010/30/EU {COM(2015) 341 final}.

Energy efficiency as a contribution to the moderation of energy demand is one of the five dimensions of the Energy Union as set out in "A Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy" {COM(2015) 80 final} in February. This is also one of the ten priorities of the Juncker Commission. Energy efficiency labelling of products provides an important contribution to demand reduction in the EU and is a motor for innovation.

As part of the Energy Union strategy, the Commission presented in July 2015 proposals to deliver a new deal for energy consumers, to launch a redesign of the European electricity market, to update energy efficiency labelling and to revise the EU Emissions Trading System. The package is an important step towards implementing the Energy Union Framework Strategy.

The Commission welcomes the Bundesrat's broad support for the aims of the proposal and notes its remarks in relation to the product database. The Commission is pleased to have this opportunity to clarify that the product database is to facilitate the work of market surveillance authorities. The database would give the authorities direct access to the compliance information of manufacturers instead of having to request it. The database would not add extra tasks for market surveillance authorities. Authorities are not required to systematically check the completeness and plausibility of all data entered. The Commission trusts that this will allay the Bundesrat's concerns. In response to the more technical comments in the Bundesrat's Opinion the Commission would like to refer to the attached annex.

The Commission would like to underline that 'Energy Efficiency First' is a central principle of the Energy Union Framework Strategy because it is an effective way to cut emissions, bring savings to consumers, and reduce the EU's fossil fuel import

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dependency. Since its introduction twenty years ago, the success of energy labelling has encouraged the development of ever more energy efficient products. As a result, the energy labels need updating as many models are in the highest classes, providing no differentiation for consumers. In the revision of the Energy Labelling Directive in 2010 the addition of A+, A++ and A+++ classes to the A-G label scale was meant to address this issue. Review has shown that these classes are less effective in persuading consumers to buy more efficient products than the A-G scale.

The Commission proposes returning to the original A to G energy label scale and periodically rescale it. In addition, the proposal addresses non-compliance through the establishment of a product registration database, in which suppliers would register their product information and compliance data. The Commission's proposed revision of the energy labelling framework would ensure coherence and continuity and make sure the consumers are able to make more informed choices that would help them save energy and money.

The Commission would like to add that the points made in this reply, including the specific comments in the Annex, are based on the initial proposal presented by the Commission, which is currently in the legislative process involving both the European Parliament and the Council in which the German government is represented. The Council reached a general approach at the Energy Council on 26 November 2015 and the European Parliament is expected to deliver its opinion in the first half of next year. The Commission remains hopeful that an agreement will be reached in the course of the incoming year hopefully under the Dutch Presidency.

The Commission hopes that these clarifications address the issues raised by the Bundesrat and looks forward to continuing our dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Miguel Arias Cañete
Member of the Commission*

Annex

The Commission has carefully considered each of the issues raised by the Bundesrat in its Opinion and is pleased to offer the following clarifications.

As regards the rescaling of energy labels addressed in Article 7 of the proposal, the Commission designed the proposal in such a way so as to limit both confusion for consumers and administrative burden for businesses. Confusion for consumers is limited by making the transition time in which both an old and a new version of the label could be found for a product group as short as possible. Administrative burden for businesses is limited by rescaling not more often than every 10 years. For that reason, it is necessary that the top classes of the label are empty at the time the label is rescaled. They will gradually be filled as products become more energy efficient. The administrative burden was assessed in the Commission's impact assessment¹ and amounts to approximately one million euros per year for the retail sector and five million euros per year for industry, together amounting to two eurocent per product sold on the EU market. Given that the requirements are mandatory, manufacturers and dealers should be able to pass these costs on to consumers, for whom they are greatly offset by the benefits. The Commission does not consider that smaller retailers would incur proportionally more administrative burden than larger retailers, because smaller retailers have fewer products on display that they would have to re-label. The suggestion to add a validity date on the labels has been tested on consumers, and the results indicated that it did not meet with comprehension; attempting to explain this further in writing would raise problems because of the many different languages in the EU.

Concerning the product database in Article 8 of the proposal, the Commission would like to highlight that one of the main aims of this database is to reduce administrative burden for national market surveillance authorities. The database would give the authorities direct access to the technical documentation of manufacturers instead of having to request it (which in practice sometimes means having to ask several times for it, and not getting it quickly), thus reducing their administrative burden. There is no increase in administrative burden for market surveillance authorities: authorities are not required to systematically check the completeness and plausibility of data entered; only where as part of their normal market surveillance activities they would find problematic data or omissions in the database would they need to follow-up. The database does not change the way market surveillance is done; it merely makes market surveillance more efficient. Manufacturers in third countries cannot circumvent registration of their products in the database, because the importers established in the EU will have to register these products. In addition please note that the delegation to the Commission in the fifth subparagraph of Article 12(3) of the proposal is only on operational aspects of the database; the requirement of what information should be registered is already laid down in Annex I of the proposal.

With regard to the request for guidelines at European level for the concept of risk in the context of energy labelling (which is referred to in Article 6 of the proposal), please note that the Commission announced in its Communication of 13 February 2013 on "20

¹ SWD(2015) 139 final.

actions for safer and compliant products for Europe: a multi-annual action plan for the surveillance of products in the EU" that it would work to complete and update the existing RAPEX guidelines², so that they cover all risks. This work is on-going and takes into account energy labelling.

Concerning the Consultation Forum established by Article 10 of the proposal, please note that the composition of the Forum includes all Member States. Member States can decide themselves on the composition of their delegations and these can include representatives from market surveillance authorities.

On the point of test methods, the proposal follows the so-called 'New Approach' for EU product legislation. This means that after the adoption of a product-specific regulation the Commission will publish the reference to the standard with the measurement and calculation methods, as specified in Article 9 of the proposal. If this had to be done at the same time as the adoption of the product-specific regulation, it would mean that the European Standardisation Organisations could determine when and even whether a product will be regulated with an energy label, whereas this is an issue that should be for policy makers to decide. Product-specific energy labelling regulations normally provide for a period of one or two years before the requirements become applicable to allow industry to prepare, during which time also such standards can be finalised. If the necessary measurement and calculation standard would not be completed on time by the European Standardisation Organisations, the Commission will publish a set of transitional measurement and calculation methods as referred to in recital 19.

With regard to provisions for energy labelling information on the internet and in advertisements, the proposal maintains the existing approach. Indeed, all advertisements for the products regulated would have to show the energy class. This is specified in Article 3(3)(a). With regard to the internet, please note that all energy labelling regulations have recently been adapted to require that the energy label is also shown on the internet³. The proposal for a new framework for energy efficiency labelling does not change this approach.

² Official Journal of the EU No L 22 of 26 January 2010.

³ Commission Delegated Regulation (EU) No 518/2014 of 5 March 2014 amending Commission Delegated Regulations (EU) No 1059/2010, (EU) No 1060/2010, (EU) No 1061/2010, (EU) No 1062/2010, (EU) No 626/2011, (EU) No 392/2012, (EU) No 874/2012, (EU) No 665/2013, (EU) No 811/2013 and (EU) No 812/2013 with regard to labelling of energy-related products on the internet, Official Journal of the EU, L 147, 17 May 2014, pp. 1-28.