REGULATORY SCRUTINY BOARD OPINION


and

COMMISSION DELEGATED REGULATION (EU) …/… supplementing Regulation (EU) 2017/1369 of the European Parliament and the Council with regard to energy labelling of refrigerating appliances with a direct sales function

{C(2019) 1815 final}
{C(2019) 2127 final}
{SWD(2019) 352 final}
{SWD(2019) 353 final}
Title: DG ENER – Regulatory (ecodesign) and energy labelling measures related to refrigerated commercial display cabinets (draft version of 20 May 2015)*

(A) Context
The Energy Labelling and Eco-design Directives address the basic problem that products can have negative impacts on the environment depending on how they are made, used and disposed of. The Ecodesign Directive "pushes" the market by banning selling of the least efficient products. The Energy Labelling Directive encourages consumers to buy more energy efficient products by informing them about the energy use of products through an energy label. This IA concerns the implementing measure to put in place energy labelling and minimum energy performance standards for commercial display refrigerators used for food stuffs.

(B) Overall opinion: POSITIVE
The Board recommends that the IA report be significantly improved in respect of the following key aspects:

1) The justification for regulating this product category should be strengthened. The expected energy savings from this particular initiative should be compared to the energy savings that have been delivered by the regulation of other products in order to gauge their relative significance.

2) The characterisation of the market should be better explained and the different positions and roles of cabinet suppliers, cabinet purchasers and cabinet leasers/takers including their relative size and market power/positions. This should be complemented with (a) more evidence as to why market failures exist and why professional users are myopic regarding energy use in their business to business dealings and a clearer explanation of how the proposed measures would address such issues; and (b) relevant experience from other jurisdictions where regulation of commercial refrigerated cabinets already exists.

3) The report should clarify that the "ecodesign" measures will not oblige consumers to replace prematurely their existing refrigerated cabinets. In addition, the impacts for affected parties need to be better explained for the various actors in the chain and for SMEs in particular who may be hardest hit by increases in the cost of a new refrigerated cabinet. In particular, the expected impacts on prices of new cabinets should be better explained and the report clarified regarding any mitigation measures for SMEs.

* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted
(C) Main recommendations for improvements

(1) Significance of energy saving potential of commercial refrigerated cabinets: It should be made clear how significant this initiative will be in comparison to the energy savings achieved by earlier regulations which have already been adopted, supported by more quantitative information. In addition, the cost effectiveness of the expected energy savings compared to those achieved by the earlier design measures should be explained and what the autonomous development (e.g. due to increasing electricity prices, technological development, etc.) in this product class would be expected to bring in any event.

(2) Problem description and market characterisation: Refrigerated cabinets are used by several different users spanning big supermarkets, smaller convenience stores in larger chains and small independent retailers. Some of these users are also purchasers of new refrigerated cabinets but many are not. This market needs to be better explained in the report in terms of who is purchasing new cabinets or leasing them or simply accommodating them while paying for the electricity they consume. This is important in order to understand better the impacts of the proposed initiative and to understand why and some market failures are peculiar of this sector and how measures such as labelling will overcome these failures. Legislation has been implemented in other jurisdictions (with different energy prices) for these product types and the report would benefit from a presentation of the experience gained particularly regarding the evolution in the energy performance of the products covered.

(3) Impacts and price increases of the different options: The report should clarify that "ecodesign" measures do not oblige users to replace prematurely their existing products with new ones. It should also explain more clearly what costs is the proposal going to have and how the economic impacts will apply across the various actors in the market chain (suppliers, purchasers, leasers, users). In particular, the expected impacts on SMEs should be better described and the report clarified whether these impacts will be mitigated in some way in the measure itself.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

(D) Procedure and presentation

The report should further differentiate views between different stakeholder groups/subgroups (e.g. large/small retailers) and explain if SMEs were consulted.

(E) RSB scrutiny process

<table>
<thead>
<tr>
<th>Reference number</th>
<th>2013/ENER/007 &amp; 2015/ENER/001</th>
</tr>
</thead>
<tbody>
<tr>
<td>External expertise used</td>
<td>No</td>
</tr>
<tr>
<td>Date of RSB meeting</td>
<td>15 July 2015</td>
</tr>
</tbody>
</table>