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NOTE

from : General Secretariat of the Council
to : Delegations
No. Cion prop. : 15906/08 ENER 390 ENV 847 CONSOM 188 CODEC 1585 + REV 1 (fr,de,en)
Subject : Proposal for a Directive of the European Parliament and of the Council on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products (recast)

Delegations will find in Annex I the text which reflects the agreement reached at the informal trialogue on 17 November, and in Annex II the accompanying draft Commission statement.

***N.B.** Due to the integration of EP and Council text, some numbering is not aligned; this will be corrected later.*

↓ 92/75/EEC (adapted) ⇒ new

2008/0222 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**on the indication by labelling and standard product information of the consumption of energy and other resources by ~~household appliances~~ ⇒ energy-related products ⇐****(recast)****(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty establishing the European Economic Community, and in particular Article ~~100a~~ ⇐ 95 ⇐ thereof,
Having regard to the proposal from the Commission¹,
Having regard to the opinion of the European Economic and Social Committee²,
Having regard to the opinion of the Committee of the Regions³,
Acting in accordance with the procedure laid down in Article 251 of the Treaty⁴,
Whereas:

(1) Council Directive 92/75/EEC of 22 September 1992 on the indication by labelling and standard product information of the consumption of energy and other resources by household appliances⁵ has been substantially amended⁶. Since further amendments have to be made, it should be recast in the interests of clarity.

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

³ OJ C [...], [...], p. [...].

⁴ OJ C [...], [...], p. [...].

⁵ OJ L 297, 13.10.1992, p 16.

⁶ See Annex I part A.

(2) The scope of Council Directive 92/75/EEC is restricted to household appliances; the Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan¹ has shown that the extension of the scope of the Directive to energy-related products which have **a significant direct or indirect** impact on energy consumption during use, could reinforce potential synergies between existing legislative measures, and in particular with Directive 2005/32/EC of the European Parliament and of the Council of 6 July 2005 establishing a framework for the setting of ecodesign requirements for energy-using products and amending Council Directive 92/42/EEC and Directives 96/57/EC and 2000/55/EC of the European Parliament and of the Council². **This Directive should not prejudice the application of Directive 2005/32/EC. Together with that Directive and other Community instruments, this Directive forms part of a broader legal framework and, in the context of a holistic approach, brings about additional energy savings and environmental gains.**

(2a) **The Presidency conclusions of the European Council of 8 and 9 March 2007 emphasised the need to increase energy efficiency in the Community so as to achieve the objective of saving 20 % of the Community's energy consumption by 2020, set targets for the EU-wide development of renewable energies and the reduction of greenhouse gas emissions and called for a thorough and rapid implementation of the key areas identified in the Commission Communication of 19 October 2006 entitled Action Plan for Energy Efficiency: Realising the Potential. The action plan highlighted the enormous energy savings opportunities in the products sector.**

(2b) **Improving efficiency of energy-related products through informed consumer choice benefits the EU economy overall.**

(3) The provision of accurate, relevant and comparable information on the specific energy consumption of energy-related products **should** influence the end-user's choice in favour of those products which consume or indirectly result in consuming less energy and other essential resources during use, thus prompting manufacturers to take steps to reduce the consumption of energy and other essential resources of the products which they manufacture; it should also, indirectly, encourage the efficient use of these products **in order to contribute to the EU's 20% energy efficiency target**. In the absence of this information, the operation of market forces alone will fail to promote the rational use of energy and other essential resources for these products.

¹ COM(2008) 397/3.

² OJ L 191, 22.7.2005, p. 29.

(3a) It is recalled that Community and national legislations exist which give certain rights to consumers with respect to purchased products, including compensation or exchange of the product.

(3b) The Commission should provide a priority list of energy-related products that could be covered by an implementing measure under this Directive. Such a list could be included in the Working Plan referred to in Directive 2005/32/EC.

(4) Information plays a key role in the operation of market forces and it is therefore necessary to introduce a uniform label for all products of the same type, to provide potential purchasers with supplementary standardized information on those products' costs in terms of energy and the consumption of other essential resources and to take measures to ensure that potential end-users who do not see the product displayed, and thus have no opportunity to see the label, are also supplied with this information; in order to be efficient and successful, the label should be easily recognisable to end-users, simple and concise. To this end the **existing layout of the label should be retained as the basis to inform end-users about the energy efficiency of products. Energy consumption of and other information concerning the products should be measured in accordance with harmonized standards and methods.**

(4a) As pointed out in the Commission Impact Assessment accompanying its proposal for this Directive, the energy labelling scheme has been followed as a model in different countries around the world.

(5) Member States should **regularly monitor compliance with this Directive, and include the relevant information in the report that they are obliged to submit every fourth year to the Commission under this Directive,** with special regard to the responsibilities of suppliers and dealers.

(5a) Regulation (EC) N° 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 contains general provisions on market surveillance relating to the marketing of products. In order to reach the aim of this Directive, this Directive provides for more detailed provisions in this respect. Those provisions are consistent with that Regulation.

(6) A completely voluntary scheme would lead to only some products being labelled, or supplied with standard product information, with the risk that this might result in confusion **or even misinformation** for some end-users. The present scheme should therefore ensure that for all the products concerned, the consumption of energy and other essential resources is indicated by labelling and standard product fiches.

(7) Energy-related products have a **direct or indirect** impact on the consumption of a wide variety of forms of energy during use, electricity and gas being the most important. This Directive should therefore cover energy-related products having a **direct or indirect** impact on the consumption of any form of energy **during use**.

(8) Energy-related products which have a significant **direct or indirect** impact on consumption of energy or, where relevant, of essential resources during use and which afford adequate scope for increased efficiency should be covered by an implementing measure, when provision of information through labelling may stimulate end-users to purchase more efficient products.

(8a) In order to meet the Community climate change and energy security objectives and, given that the total energy consumed by products is expected to continue to rise in the longer term, the implementing measures under this Directive could, where relevant, also highlight on the label the high total energy consumption of the product.

(9) A number of Member States have public procurement policies in place which require contracting authorities to procure energy efficient products. A number of Member States also have put in place incentives for energy efficient products. The criteria for products to be eligible for public procurement or incentives can substantially differ from one Member State to the other. To refer to performance classes as levels for particular products as set out in implementing measures to the Directive, reduces fragmentation of public procurement and incentives and facilitates the uptake of efficient products.

(11) Incentives which Member States may provide for the promotion of efficient products might constitute state aid. This Directive does not prejudice the outcome of any future state aid procedure that may be undertaken in accordance with Articles 87 and 88 of the Treaty in their respect **and should not cover taxation and fiscal matters. Member States are free to decide on the nature of such incentives.**

(12) The promotion of energy efficient products through labelling, public procurement and incentives should not be to the detriment of their overall environmental performance **and their functioning;**

(13) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission;

(14) Power should be conferred on the Commission to adopt implementing measures in respect of labelling and standard product information of the consumption of energy and other essential resources by energy-related products **during use**. Since those measures are of general scope and are designed to amend non-essential elements of this Directive by supplementing it, they shall be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

The Commission should regularly submit to the European Parliament and the Council a synthesis, covering the EU and each Member State separately, of the reports submitted by Member States according to Article 3(3).

The Commission should be responsible for adapting the label classifications with the aim of ensuring predictability for the industry and comprehension for consumers.

To a varying extent according to the product concerned, technological development and the potential for additional significant energy savings could make further product differentiation necessary and justify a review of the classification; such review should [...] include in particular the possibility of rescaling. This review should be carried out as expeditiously as possible in the case of products which, due to their very innovative characteristics, can make a significant contribution to energy efficiency.

(14a) When the Commission will review progress and report on the implementation of the Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan in 2012, it will in particular analyse whether further action to improve the energy and environmental performance of products is needed, including *inter alia* the possibility to provide consumers with information on the carbon footprint of products or the products' environmental impact during their life cycle.

(15) The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive change as compared with the earlier Directive. The obligation to transpose the provisions which are unchanged arises under the earlier Directive.

(15a) When Member States implement the provisions of this Directive, they should strive to refrain from measures that could impose unnecessarily bureaucratic and unwieldy obligations on the market participants concerned, in particular small and medium-sized enterprises.

(16) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and application of the Directive set out in Annex I, Part B,

(17) In accordance with point 34 of the Interinstitutional Agreement on better law-making¹, Member States are encouraged to draw up, for themselves and in the interest of the Community, their own tables, illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public.

¹ OJ C 321, 31.12.2003, p. 1.

Article 1

⊗ Scope ⊗

1. This Directive establishes a framework for the harmonization of national measures on end-user information, particularly by means of labelling and of product information, on the consumption of energy and **where relevant** of other essential resources **during use**, and supplementary information concerning energy-related products, thereby allowing end-users to choose more efficient products.
2. This Directive shall apply to **energy-related products, which have a significant direct or indirect impact on the consumption of energy and, where relevant, on other essential resources during use.**
3. This Directive shall not apply to
 - ⇒ (a) second-hand products; ⇐
 - ⇒ (b) any means of transport for persons or goods; ⇐
 - (c) the rating plate or its equivalent affixed for safety purposes to ~~such appliances~~ ⇒ products ⇐.

Article 2

⊗ Definitions ⊗

4. For the purpose of this Directive:

- ⇒ "energy-related product", hereinafter referred to as "product", means any good having an impact on energy consumption during use, which is placed on the market and/or put into service in the Community, including parts intended to be incorporated into energy-related products covered by this Directive which are placed on the market and/or put into service as individual parts for end-users and of which the environmental performance can be assessed independently; ⇐
- ⇒ "fiche" means a standard table of information relating to a product; ⇐
- "other essential resources" means water, chemicals or any other substance consumed by ~~an~~ **appliance** ⇒ a product ⇐ in normal use;
- "supplementary information" means other information concerning the performance ⇒ and features ⇐ of ~~an appliance~~ ⇒ a product ⇐, which ~~relates~~ ⇒ relate ⇐ to, or ~~is~~ ⇒ are ⇐ helpful in evaluating, its use of energy or other essential resources, **based on measurable data**;
- **'direct impact' means the impact of products that actually consume energy during use;**

- **'indirect impact'** means the impact of products that do not consume energy, but contribute to energy conservation during use;

- "dealer" means a retailer or other person who sells, hires, offers for hire-purchase or displays household appliances ⇒ products ⇐ to end-users;

- "supplier" means the manufacturer [.] or its authorized representative in the Community or the ⇒ importer ⇐ [.] who places or puts into service the product on the Community market. In their absence, any natural or legal person who places on the market or puts into service products covered by this Directive shall be considered a supplier.

- **"placing on the market"** means making a product available for the first time on the Community market with a view to its distribution or use within the Community, whether for reward or free of charge and irrespective of the selling technique;

- **"putting into service"** means the first use of a product for its intended purpose in the Community;

"unauthorised use of the label" means the use of the label, other than by Member State authorities or Community Institutions, in a manner not foreseen in this Directive or an implementing measure.

Article 3

⊠ Responsibilities of Member States ⊠

1. Member States shall take all necessary measures to ensure that:

(a) all suppliers and dealers established in their territory fulfil their obligations under ⇒ as referred to in Articles 5 and 6 of ⇐ this Directive;

(b) with respect to products covered by this Directive, the display of other labels, marks, symbols or inscriptions which do not comply with the requirements of this Directive and of the relevant implementing measures is prohibited, if such display is likely to mislead or confuse end-users with respect to the consumption of energy or, where relevant, other essential resources **during use**;

(c) the introduction of the system of labels and fiches concerning energy consumption or conservation is accompanied by educational and promotional information campaigns aimed at **promoting energy efficiency and** more responsible use of energy by end-users;

(d) appropriate measures are taken in order to encourage the **relevant national or regional** authorities responsible for implementing this Directive to co-operate with each other and provide each other **and the Commission** with information in order to assist the functioning of this Directive.

The administrative co-operation and exchange of information [.] shall take the utmost advantage of electronic means of communication, **shall be cost-effective** and may be supported by relevant Community programmes. Such co-operation shall guarantee the security and confidentiality of processing and the protection of sensitive information provided during that procedure, where necessary. The Commission shall take appropriate measures in order to encourage and contribute to the cooperation between Member States referred to in this point.

2. Where a Member State ascertains that a product does not comply with all the relevant requirements set out in this Directive and its implementing measures for the label and the fiche, the supplier shall be obliged to make the product compliant with those requirements under **effective and proportionate** conditions imposed by the Member States.

Where there is sufficient evidence that a product may be non-compliant, the Member State concerned shall take the necessary preventive measures **and measures aimed at restoring compliance within a precise timeframe, taking into account the prejudice caused.**

Where non-compliance continues, the Member State shall take a decision restricting or prohibiting the placing on the market and/or putting into service of the product in question or ensuring that it is withdrawn from the market. In cases of withdrawal of the product from the market or prohibition to place the product on the market, the Commission and the other Member States shall be immediately informed.

3. Every **four** years, the Member States shall submit a report to the Commission **including details about** their enforcement activities and the level of compliance in their territory.

The Commission may specify the details of the common content of these reports, **through the setting of guidelines.**

4. The Commission shall regularly provide a synthesis of those reports to the European Parliament and the Council for information.

Article 4

⊗ Information requirements ⊗

⇒ Member States shall ensure that: ⇐

(1) information relating to the consumption of electric energy, other forms of energy and **where relevant** other essential resources **during use**, and supplementary information is, in accordance with implementing measures pursuant to this Directive, brought to the attention of end-users by means of a fiche and a label related to products offered for sale, hire, hire-purchase or displayed to end-users directly or indirectly by any means of distance selling including the internet;

(2) the information referred to in paragraph 1 shall be provided in respect of built-in or installed products where required by the applicable implementing measure;

(2a) any advertisement for a specific model of energy-related products covered by an implementing measure under this Directive includes, where energy-related or price information is disclosed, a reference to the energy efficiency class of the product.

(2b new) any technical promotional **material** concerning energy-related products which describes the specific technical parameters of a product, namely, technical manuals and manufacturers' brochures, whether printed or online, shall provide end users with the necessary information regarding energy consumption or shall include a reference to the **energy efficiency class** of the product;

Article 5

⊗ Responsibilities of suppliers ⊗

⇒ Member States shall ensure that: ⇐

(1) ~~All~~ suppliers placing on the market ⇒ or putting into service ⇐ ~~household appliances specified in the~~ ⇒ products ⇐ ⊗ covered by an ⊗ implementing ~~directives~~ ⇒ measure ⇐ shall supply a label ⇒ and a fiche ⇐ in accordance with this Directive ⇒ and the implementing measure ⇐. ~~The labels used shall in all respects comply with this Directive and with the implementing directives.~~

(2) ~~3~~ ⊗ suppliers establish a ⊗ ~~technical documentation shall be established~~ which shall be sufficient to enable the accuracy of the information contained in the label and the fiche to be assessed. ~~#~~ ⊗ The technical documentation ⊗ shall include:

- (a) a general description of the product,
- (b) the results of design calculations carried out, where these are relevant,
- (c) test reports, where available, including those carried out by relevant notified organizations as defined under other Community legislation,
- (d) where values are ~~derived from those obtained~~ ⇒ used ⇐ for similar models, the ~~same information for these~~ ⇒ references allowing identification of those ⇐ models.

~~4. The supplier shall establish the technical documentation described in paragraph 3. To this end it~~
 suppliers may use documentation already ~~required on the basis of~~ established in accordance with requirements laid down in relevant Community legislation.

- (3) ~~The suppliers shall~~ make ~~this~~ the technical documentation available for inspection purposes for a period ending five years after the last product ⇒ concerned ⇐ has been manufactured.

Suppliers make available an electronic version of the technical documentation on request to the market surveillance authorities of the Member States and to the Commission within 10 working days upon receipt of a request by the competent authority of a Member State or the Commission.

- (4) ~~(b) the supplier shall supply the necessary labels free of charge, to dealers referred to in paragraph (a). Suppliers are free to choose their own system for delivery of labels. However, where a dealer sends a request for labels, the supplier must ensure that the requested labels are delivered promptly.~~ in respect of labelling and product information, suppliers supply the necessary labels free of charge to dealers.

Without prejudice to the suppliers' choice of system for delivery of labels, suppliers promptly deliver labels on request from dealers.

- (5) in addition to the labels, suppliers provide a product fiche.

- (6) ~~This fiche shall be contained~~ suppliers include a product fiche in all product brochures. Where ~~these~~ product brochures are not provided by the supplier, ~~he shall supply~~ the supplier supplies fiches with other literature provided with the ~~appliance~~ ⇒ product ⇐. ~~The fiches used shall in all respects comply with this Directive and with the implementing directives.~~

(7) ~~3. Suppliers shall be~~ ☒ are ☒ responsible for the accuracy of the labels and fiches that they supply.

(8) ~~4. The suppliers shall be deemed~~ ☒ are considered ☒ to have given ~~his~~ consent to the publication of the information given on the label or ☒ in ☒ the fiche.

Article 6

☒ Responsibilities of dealers ☒

Member States shall ensure that:

(1) dealers display labels properly, **in a visible and legible manner**, and make the fiche available in the product brochure or other literature that accompanies products when sold to end-users.

(2) ~~[.] the following provisions shall apply:~~(a) whenever an **appliance** ⇒ product ⇐ **covered** by an implementing **directive** ⇒ measure ⇐ is displayed, dealers ~~shall~~ attach an appropriate label, in the clearly visible position specified in the **relevant** ☒ applicable ☒ implementing **directive** ⇒ measure ⇐, and in the relevant language version.

Article 7

☒ Distance selling ☒ *and other forms of selling*

Where products are offered for sale, hire or hire-purchase by mail order, by catalogue, via internet, **via telemarketing** or by any other means which imply that the potential end-user cannot be expected to see the product displayed, implementing measures shall make provision to ensure that potential end-users are provided with the information specified on the label **for the product** and in the fiche before buying the product. **Implementing measures shall, where appropriate, specify the way that the label or the fiche or the information specified thereby shall be displayed or provided to the potential end-user.**

Article 8

☒ Free movement ☒

1. Member States shall not prohibit, restrict or impede the placing on the market or putting into service, within their territories of products which are covered by and comply with **this Directive and the applicable implementing measure.**

2. Unless they have evidence to the contrary, Member States shall ~~deem~~ consider labels and fiches to comply with the provisions of this Directive and the implementing ~~directives~~ measures . ~~They~~ Member States ~~may~~ shall require suppliers to ~~furnish~~ provide evidence within the meaning of Article ~~3~~ ~~(2)~~ 5 concerning the accuracy of the information supplied on their labels or fiches when they have reason to suspect it is incorrect.

Article 9

Public procurement and incentives

1. Where a product is covered by an implementing measure, contracting authorities which conclude public supply, works or services contracts as referred to in Directive 2004/18/EC of the European Parliament and of the Council, which are not excluded by virtue of Articles 12 to 18 of that Directive, shall endeavour to procure only such products which comply with the criteria of having the highest performance levels and belonging to the highest energy efficiency class. Member States may also require the contracting authorities to procure only such products fulfilling those criteria. Member States may make the application of those criteria subject to cost-effectiveness, economical feasibility and technical suitability and sufficient competition.

2. Paragraph 1 shall apply to contracts having a value equal to or greater than the thresholds laid down in Article 7 of Directive 2004/18/EC.

3. When Member States [...] provide any incentives to a product[...] covered by an implementing measure, they shall aim at the highest performance levels including the highest class of energy efficiency laid down in the applicable implementing measure. Taxation and fiscal measures do not constitute incentives for the purpose of this Directive.

4. When Member States [...] provide incentives for products, both for end-users using highly efficient products and for industries who promote and produce such products, they shall express the performance levels in terms of classes as defined in the applicable implementing measure, except when they impose higher performance levels than the threshold for the highest energy efficiency class in the implementing measure. Member States shall be allowed to impose higher performance levels than the threshold for the highest energy efficiency class in the implementing measure.

Article 10

⊗ Committee procedure ⊗

1. The Commission shall be assisted by a committee.
2. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Article 11

⊗ Implementing measures ⊗

1. Details relating to the label and the fiche shall be laid down in implementing measures. Those implementing measures designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 10(2), relating to each type of product in accordance with this Article. When a product meets the criteria listed under paragraph 2, it shall be covered by an implementing measure in accordance with paragraph 4. Provisions in implementing measures regarding information provided on the label and in the fiche on the consumption of energy and other essential resources during use shall enable end-users to make better informed purchasing decisions and shall enable market surveillance authorities to verify whether products comply with the information provided. When an implementing measure lays down provisions with respect to both energy efficiency and consumption of essential resources of a product, the design and content of the label shall emphasize the energy efficiency of the product.
2. The criteria referred to in paragraph 1 are the following:
 - (a) according to most recently available figures and considering the quantities placed on the Community market, the products shall have a significant potential for saving energy and, where relevant, other essential resources;
 - (b) products with equivalent functionality available on the market shall have a wide disparity in the relevant performance levels;
 - (c) the Commission shall take into account relevant Community legislation and self-regulation, such as voluntary agreements, which are expected to achieve the policy objectives more quickly or at lesser expense than mandatory requirements;

3. In preparing a draft implementing measure, the Commission shall:

- (a) take into account those environmental parameters set out in Annex I, part 1, to Directive 2005/32/EC which are identified as significant in the relevant implementing measure adopted under Directive 2005/32/EC and which are relevant for the end-user during use;
- (b) assess the impact of the measure on environment, end-users and manufacturers, including SMEs, in terms of competitiveness including on markets outside the Community, innovation, market access and costs and benefits;
- (c) carry out appropriate consultation with stakeholders;
- (d) set implementing date(s), any staged or transitional measure or periods, taking into account in particular possible impacts on SMEs or on specific product groups manufactured primarily by SMEs.

4. The implementing ~~directives~~ ⇒ measures ⇐ shall specify ☒ in particular ☒:

- (a) the exact definition of the type of ~~appliances~~ ⇒ products ⇐ to be included;
- (b) the measurement standards and methods to be used in obtaining the information referred to in Article 1 (1);
- (c) ☒ the ☒ details of the technical documentation required under Article ~~2(3)~~5;
- (d) the design and content of the label referred to in Article ~~2~~4, which as far as possible shall have uniform design characteristics ☒ across product groups ☒ **and shall in all cases be clearly visible and legible. The format of the label shall retain as a basis the classification using letters from A to G; the steps of the classification shall correspond to significant energy and cost savings from the end-user perspective;**

Three additional classes may be added to the classification if required by technological progress. Those additional classes will be A+, A++, and A+++ for the most efficient class; in principle the total number of classes will be limited to seven, unless more classes are still populated;

The colour scale shall consist of no more than seven different colours from dark green to red. Only the colour code of the highest class shall always be dark green. If there are more than seven classes, only the red colour can be duplicated.

The classification shall be reviewed in particular when a significant proportion of products on the internal market achieves the two highest energy efficiency classes and when additional savings may be achieved by further differentiating products.

Detailed criteria for a possible reclassification of products are, where appropriate, to be determined on a case-by-case basis in the relevant implementing measure.

- (e) the location where the label shall be fixed to the ~~appliance~~ ⇒ product displayed and the information and manner in which the label and/or information are to be provided in the case of offers for sale as covered by Article 7 ⇐. Where appropriate, ~~they~~ ⊗ the implementing measures ⊗ may provide for the label to be attached to ⇒ the product ⇐ or printed on the packaging ⇒ , or for the details of the labelling requirements for printing in catalogues, for distance selling and internet sales ⇐;
- (f) the content and where appropriate the format and other details concerning the fiche or further information specified in Articles 3 4 and 5(23). The information on the label shall also be included on the fiche;
- (i) the specific content of the label for advertising, including, as appropriate, the energy class and other relevant performance level(s) of the given product in a legible and visible form;
- (j) the duration of label classification(s), where appropriate, **in accordance with point d**;
- (k) the level of accuracy in the declarations on the label and fiches;
- (l) the date for the evaluation and possible revision of the implementing measure, taking into account the speed of technological progress.

Article 11b

Evaluation

Not later than 31 December 2014, the Commission shall review the effectiveness of this Directive and of its implementing measures and submit a report to the European Parliament and the Council.

At that occasion, the Commission shall also assess

- i) the contribution of Article 4(2a) to the aim of this Directive;**
- ii) the effectiveness of Article 9(1);**
- iii) in the light of technical evolution and the understanding by consumers of the label layout, the need for amending Article 11(4)(d).**

Article 12

Penalties

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and its implementing measures **including against unauthorised use of the label**, and shall take the necessary measures to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. The Member States shall notify these provisions to the Commission by the date specified in Article 13(1) at the latest and shall notify it without delay of any subsequent amendment affecting them.

Article 13

Transposition

1. Member States shall bring into force, by [*¹] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions [.]

They shall apply those provisions from [...].

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the directive repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

¹ A date corresponding to 12 months after entry into force.

Article 14

Repeal

Council Directive 92/75/EEC, as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council of 29 September 2003¹ indicated in Annex I, Part A, is repealed with effect from [*²], without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and application of the Directive set out in Annex I, Part B. References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex II.

Article 15

Entry into force

This Directive shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Articles [*³] shall apply from [*⁴].

Article ~~15~~16

⊠ *Addressees* ⊠

This Directive is addressed to the Member States.

Done at [...].

For the European Parliament

The President

[...]

For the Council

The President

[...]

¹ OJ L 284, 31.10.2003, p. 1.

² A day after the date set out in the second subparagraph of Article 13(1) of this Directive.

³ Deemed unchanged articles under recast in the final version.

⁴ A day after the date set out in the second subparagraph of Article 13(1) of this Directive.

Commission statements

concerning:

Art. 1 (2)

"When setting out the priority list of energy-related products referred to in Recital [3a], the Commission will give due attention also to energy-related construction products, taking into account in particular the potential energy savings that could be achieved through the labelling of some of those products, given that buildings account for 40 % of total energy consumption in the EU."

Art. 11 (2)

"When proposing new implementing measures under the recast Directive, the Commission shall ensure that overlapping legislation is avoided and that overall consistency in the EU-legislation on products is maintained."

Art. 11 (4)(d)

Significant proportion of products for the review of label classification

"The Commission considers that the proportion of products in the two highest energy efficiency classes is considered to be significant when it can be estimated that

- **either the number of models available on the internal market which achieve class A+++ or A++ is about one third or more of the total number of relevant models available,**
- **or the share of the annual sales of products in the internal market which achieve class A+++ or A++ is about one third or more,**
- **or both."**