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NOTE

From:	General Secretariat of the Council
To:	Delegations
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Subject:	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

Following the examination of the above-mentioned proposal by the Working Party on Energy on 13 and 26 October 2015, delegations will find attached the Presidency's latest compromise proposals.

Changes compared to 11376/2/15 are marked with **bold underline**. Deletions are marked with []. Previous changes are marked in **bold**.

All delegations have a scrutiny reservation on the text.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

setting a framework for energy [] labelling and repealing Directive 2010/30/EU

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 194(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The European Union is committed to building an Energy Union with a forward looking climate policy. Energy efficiency is a crucial element of the European Union's 2030 Climate and Energy Policy Framework and is key to moderate energy demand.

¹ OJ C , , p. .

² OJ C , , p. .

- (2) Energy [] labelling allows consumers to make informed choices with regard to energy consumption of products and thereby promotes innovation. **Improving the efficiency of energy-related products through informed consumer choice and harmonising related requirements at Union level benefits manufacturers, industry and the EU economy overall.**
- (3) Directive 2010/30/EU of the European Parliament and of the Council³ was evaluated for its effectiveness⁴. The evaluation identified the need to update the Energy Labelling framework to improve its effectiveness.
- (4) It is appropriate to replace Directive 2010/30/EU by a Regulation which maintains the same scope, but modifies and enhances some of its provisions in order to clarify and update their content. **As the energy consumption of means of transport for persons or goods is directly or indirectly regulated by other Union legislation and policies, it is appropriate to continue to exempt them from the scope of this Regulation. However, it is appropriate to clarify that means of transport whose motor stays in the same location during operation, such as elevators, escalators and conveyor belts, should be within the scope of the Regulation.**
- (5) A Regulation is the appropriate legal instrument as it imposes clear and detailed rules which do not give room for divergent transposition by Member States and ensures thus a higher degree of harmonisation across the Union. A harmonised regulatory framework at Union rather than at Member State level brings down costs for manufacturers and ensures a level playing field. Harmonisation across the Union ensures the free movement of goods across the Single Market.

³ OJ L 153, 18.6.2010, p. 1.

⁴ COM(2015) [] **345**

- (6) Moderating energy demand is recognised as a key action in the European Energy Security Strategy⁵. The Energy Union Framework Strategy⁶ further emphasised the energy efficiency first principle and the need to fully implement existing Union energy legislation. Its Roadmap provided for a review of the energy efficiency framework for products in 2015. This Regulation will improve the legislative and enforcement framework for energy labelling.
- (7) Improving the efficiency of energy-related products through informed **customer** choice benefits the Union economy overall, drives innovation and will contribute to the achievement of the Union's 2020 and 2030 energy efficiency targets. It will also allow **customers** to save money.
- (8) The conclusions of the European Council of 23 and 24 October 2014 set an indicative target at Union level of at least 27% for improving energy efficiency in 2030 compared to projections of future energy consumption. This target will be reviewed by 2020 having in mind an Union level of 30%. They also set a binding EU target of at least 40% domestic reduction in greenhouse gas emissions by 2030 compared to 1990, including a 30% reduction of emissions in non-ETS sectors.

⁵ COM/2014/330
⁶ COM(2015) 80 final

- (9) The provision of accurate, relevant and comparable information on the specific energy consumption of energy-related products facilitates the customer's choice in favour of those products which consume less energy and other essential resources during use. A standardised mandatory label is an effective mean to provide potential customers with comparable information on the energy consumption of energy-related products. It should be supplemented with a product information sheet. The label should be easily recognisable, simple and concise. To this end the existing dark green to red colour scale of the label should be retained as the basis to inform customers about the energy efficiency of products.
- (9a)** A classification using letters from A to G has shown to be cost effective for customers. **However, in some cases, such as reaching insufficient savings across the full spectrum of the seven classes, a shorter scale could be appropriate.** In situations where because of ecodesign measures under Directive 2009/125/EC products can no longer fall into classes 'F' or 'G', those classes should not be shown on the label, **or should be shown only in grey colour.** For exceptional cases this should also be extended to the 'D' and 'E' classes, although this situation is unlikely to occur given that the label would be **reviewed in view of** rescaling once [] **40 percent of the** products [] **sold** falls into the top [] class **and further technological development can be expected soon. For existing labels adopted pursuant to Directive 2010/30/EU, rescaling should take place five years after the entry into force of this Regulation, except for certain products, where specific technical characteristics justify a longer rescaling period of eight years.**
- (9b)** When suppliers supply a label with a product they place on the market, it should accompany in a paper form each unit of the product complying with the requirements of the relevant implementing act. **If the implementing act allows it, the label may instead be printed on the packaging of the product. The relevant implementing acts should set out the most effective/appropriate way of displaying the labels, taking into account implications for consumers, suppliers and dealers.** The dealer should be able to display the supplied label together with the unit in the position required by the relevant implementing act.

- (10) **Advances** in digital technology allow for alternative ways of [] supplying and displaying labels and product information sheets electronically, such as on the internet or via the product database, but also on electronic displays in shops. Without affecting the obligation of the supplier to provide the label in physical form, [] such technological advances should be taken advantage of. Therefore, this Regulation should allow the use of electronic labels as replacement of or complementary to the physical supply of the energy label, and include the alternative to allow in implementing acts for the product information sheet to be delivered only by means of the information available in the product database.
- (10a)** In cases where it is not feasible to display the energy label, such as certain forms of distance selling and in advertisements and technical promotional material, potential customers should be provided at least with the energy class of the product, the range of the efficiency classes available on the label and, where appropriate, energy consumption.
- (11) Manufacturers respond to the energy label by creating ever more efficient products. This technological development leads to products populating mainly the highest classes of the energy label. Further product differentiation may be necessary to allow customers a proper comparison, leading to the need to rescale labels. [] This Regulation should therefore lay down detailed arrangements for rescaling in order to maximise legal certainty for suppliers and dealers.
- (11a)** [] The frequency of such rescaling should be determined by the percentage of products sold that fall in the top class and should [] take into account the need to avoid over burdening [] suppliers and dealers. A newly rescaled label should have one empty top class to encourage technological progress, provide for regulatory stability and limit the frequency of rescaling. []

- (12) **When a label is rescaled, confusion to customers should be avoided by replacing all energy labels within a short timeframe.** In the case of a rescaled label, suppliers should provide both the old and the rescaled labels to dealers during a certain period. The replacement of the existing labels on products on display, including on the Internet, with the rescaled labels should take place as quickly as possible after the date of replacement specified in the [] **implementing** act on the rescaled label. Dealers should not display the rescaled labels before the date of replacement.
- (13) It is necessary to provide for a clear and proportionate distribution of obligations corresponding to the role of each operator in the supply and distribution process. Economic operators should be responsible for compliance in relation to their respective roles in the supply chain and should take appropriate measures to ensure that they only make available on the market products which are in conformity with this Regulation and its [] **implementing** acts.
- (14) In order for customers to retain trust in the energy label, other labels that mimic the energy label should not be allowed to be used for energy-related products **covered by labelling requirements. However, as long as such products are not covered by other energy related requirements at Union level, Member States should be able to maintain or introduce new national schemes for the labelling of products.** Additional labels, marks, symbols or inscriptions that are likely to mislead or confuse customers with respect to the consumption of energy should not be allowed []. [] **Labels provided for in EU legislation such as the labelling of tyres with respect to fuel efficiency and other environmental parameters, and additional labels such as the EU Energy Star and EU Ecolabel should not be considered as misleading or confusing.**

- (15) In order to ensure legal certainty, it is necessary to clarify that rules on Union market surveillance and control of products entering the Union market provided for in Regulation (EC) No 765/2008 of the European Parliament and of the Council⁷ apply to energy-related products. Given the principle of free movement of goods, it is imperative that the market surveillance authorities of the Member States cooperate with each other effectively. Such cooperation on energy labelling should be reinforced through support by the Commission to **the Group of Experts on Ecodesign and Energy Labelling Administrative Co-operation Working Group (ADCO)**.
- (15a) **It is recalled that market surveillance activities covered by Regulation (EC) 765/2008 are not directed exclusively towards the protection of health and safety, but also applicable to the enforcement of Union legislation which seeks to safeguard other public interests, including energy efficiency. In line with the market surveillance action plan for safer and compliant products for Europe, the Commission should complete and update the general risk assessment methodology available in the RAPEX Guidelines⁸ so that they cover all risks, including those related to energy labelling.**
- (15b) **The Commission should, by means of implementing acts, [] in order to ensure uniform conditions for the implementation of the Union safeguard procedure, determine whether measures taken by Member States in respect of non-compliant energy related products are justified or not.**

⁷ OJ L 218, 13.8.2008, p. 30.

⁸ OJ L 22, 26.1.2010, p. 1.

- (16) **Without prejudice to the obligation to perform real product compliance test**, in order to facilitate the monitoring of compliance and to provide up-to-date market data for the regulatory process on revisions of product-specific labels and information sheets, suppliers should provide their **labels, product information sheets and technical documentation** [] electronically in a database established by the Commission. The information **on energy labels and product information sheets** should be made publicly available to provide information for customers and to allow for alternative ways for dealers to receive labels. **The technical documentation should not be made publicly available but only to market surveillance authorities and the Commission** []. **When any changes with relevance for the label and the product information sheet are made to a product already on the market, the product is considered as a new model and the supplier has an obligation to register it in the product database.**
- (17) The penalties applicable to infringements of the provisions of this Regulation and [] **implementing** acts adopted under it should be effective, proportionate and dissuasive.
- (18) In order to promote energy efficiency, climate mitigation and environmental protection, Member States should be able to create incentives for the use of energy efficient products. Member States are free to decide on the nature of such incentives. Such incentives should comply with Union State aid rules and should not constitute unjustifiable market barriers. This Regulation does not prejudice the outcome of any future State aid procedure that may be undertaken in accordance with Articles 107 and 108 of the Treaty on the Functioning of the European Union in respect of such incentives.

- (19) Energy consumption, **performance** and other information concerning the products covered by product-specific requirements under this Regulation should be measured by using reliable, accurate and reproducible methods that take into account the generally recognised state-of-the-art measurements and calculation methods. It is in the interests of the functioning of the internal market to have standards which have been harmonised at Union level. In the absence of published standards at the time of application of product-specific requirements the Commission should publish in the Official Journal of the European Union transitional measurement and calculation methods in relation to those product-specific requirements. Once a reference to such a standard has been published in the Official Journal of the European Union compliance with it should provide a presumption of conformity with measurement methods for those product-specific requirements adopted on the basis of this Regulation.
- (20) The Commission should provide a working plan for the revision of labels of particular products including an indicative list of further energy-related products for which an energy label could be established. The working plan should be implemented starting with a technical, environmental and economic analysis of the product groups concerned. This analysis should also look at supplementary information including the possibility and cost to provide consumers with information on the performance of an energy-related product, such as its [] energy consumption, durability or environmental performance, in coherence with the objective to promote a circular economy. Such supplementary information should improve the intelligibility and effectiveness of the label towards consumers and should not lead to any negative impact on consumers.

- (20a) **In spite of the repeal of Directive 2010/30/EU, suppliers of products marketed in accordance with that Directive before the date of application of this Regulation should continue to be subject to the obligation to make available an electronic version of the technical documentation of the products concerned upon request of the market surveillance authorities. Appropriate transitional provisions should ensure legal certainty and continuity in this respect.**
- (21) In order to establish [] **specific product groups of energy related products in accordance with a set of specific criteria**, the power to adopt acts in accordance with Article 290 on the Treaty on the Functioning of the European Union should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level and with the Consultation Forum. **The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.**
- (21a) **In order to ensure uniform conditions for the implementation of this Regulation, implementing powers on establishing detailed requirements relating to labels for the specific products groups and operational details relating to the product database should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁹.**

⁹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (21b) **Since the objectives of this Regulation , namely □ allowing customers to choose more efficient products by supplying relevant information, cannot be sufficiently achieved by the Member States but can rather, by further developing the harmonised regulatory framework and ensuring a level playing field for manufacturers, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.**
- (22) This Regulation should be without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and application of Directive 2010/30/EU.
- (23) Directive 2010/30/EU should therefore be repealed.

HAVE ADOPTED THIS REGULATION:

Article 1

Scope and subject matter

1. This Regulation shall **apply to energy related products first made available or put into service on the Union market.**
2. **It shall** not apply to:
 - (a) []
 - (b) Means of transport for persons or goods other than those operated by a stationary motor.
3. This Regulation lays down a framework on the indication by labelling and standard product information of the **energy efficiency**, consumption of energy and **of** other resources by energy-related products during use and supplementary information concerning energy-related products in order to allow customers to choose more efficient products **and reduce [] energy consumption.**

Article 2

Definitions

For the purposes of this Regulation the following definitions apply:

- (1) 'Customer' means any natural or legal person who buys or hires a product covered by this Regulation for their own use whether or not acting for purposes which are outside his trade, business, craft or profession;
- (2) 'Placing on the market' means the first making available of a product on the Union market;
- (3) 'Making available on the market' means any supply of a product for distribution or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;

- (4) 'Putting into service' means the first use of a product for its intended purpose on the Union market;
- (5) 'Supplier' means the manufacturer in the Union, the authorised representative of a manufacturer who is not established in the Union, or the importer, who places products covered by this Regulation on the **Union** market **[]**;
- (6) 'Manufacturer' means any natural or legal person who manufactures a [] product or has a product designed or manufactured, and markets that [] product under his name or trademark;
- (7) 'Authorised representative' means any natural or legal person established in the Union who has received a written mandate from the manufacturer to act on his behalf in relation to specified tasks;
- (8) 'Importer' means any natural or legal person established in the Union who places a [] product from a third country on the Union market;
- (9) 'Dealer' means a retailer or other person who sells, hires, offers for hire purchase or displays products to customers;
- (10) 'Distance selling' means sale, hire or hire purchase by mail order, catalogue, Internet, telemarketing or any other method where the potential end user cannot be expected to see the product displayed;
- (10a) 'Energy efficiency' means the ratio of output of performance, service, goods or energy to input of energy;**
- (11) 'Energy-related product' (**hereinafter 'product'**) means any good or system [] with an impact on energy consumption during use, which is placed on the market [] **or** put into service in the Union [];

- (12) 'Harmonised standard' means a European standard as defined in Article 2(1)(c) of Regulation (EU) No 1025/2012;¹⁰
- (13) 'Label' means a graphic diagram, **either in printed or electronic form**, including a classification using letters from A to G in seven different colours from dark green to red in order to show **energy efficiency and** consumption of energy. **It includes rescaled labels and labels with fewer classes and colours in accordance with Article 7(1b) and (4);**
- (14) 'Model' means a version of a product of which all units share the same technical characteristics relevant for the label and the product information sheet and share the same model identifier;
- (15) 'Model identifier' means the code, usually alphanumeric, which distinguishes a specific product model from other models with the same trade mark or supplier's name;
- (16) 'Equivalent model' means a model **which has same technical characteristics relevant for the label and the** product information **sheet, but is** placed on the market by the same supplier [] as another model [] with a different model identifier;
- (17) 'Product information sheet' means a standard table of information relating to a product, **either in printed or electronic form**;
- (18) 'Rescale' means an [] exercise to make more stringent the requirements for achieving the energy class on a label for a particular product [];
- (19) []
- (20) 'Supplementary information' means information on the functional and environmental performance of a [] product, such as its [] energy consumption [] [];

¹⁰ Regulation (EU) No 1025/2012 of the European Parliament and of the Council on European standardisation (OJ L 316, 14.11.2012, p.12).

- (21) 'Technical documentation' means documentation sufficient to enable to assess the accuracy of a label and product information sheet of a product, including a test report or similar technical evidence;
- (22) 'System' means a combination of several goods which when put together perform a specific function in an expected environment and of which the energy efficiency can then be determined as a single entity
- (23) 'Verification tolerance' means the maximum admissible deviation of the measurement and calculation results of the verification tests performed by, or on behalf of, market surveillance authorities, compared to the values of the declared or published parameters, reflecting interlaboratory variation deviation.
- (24) 'Product group' means a group of products with related functions;
- (25) 'Verification procedure' means the method for checking product conformity by, or on behalf of, market surveillance authorities;

Article 2a

General obligation

Products placed on the market shall comply with this Regulation and the relevant implementing acts.

Article 3

Obligations of suppliers and dealers

1. Suppliers shall []:
 - (a) [] ensure that products placed on the market are [] **supplied**, free of charge, with accurate labels and product information sheets **for each unit** in accordance with this Regulation and the relevant [] **implementing acts adopted under Article 12 of this Regulation.** [] **As an alternative to supplying the product information sheet with the product,** implementing acts may [] provide that **entering such** product information sheets into the product database established under Article 8 (hereinafter: 'the product database') **is sufficient.**

Implementing acts may provide that the label is printed on the packaging of the product.
 - (b) [] deliver labels, **including rescaled labels in accordance with Article 7(5), and product information sheets** promptly and free of charge on request from dealers.
 - (c) [] ensure the accuracy of the labels and product information sheets that they provide and produce technical documentation sufficient to enable the accuracy to be assessed.

(1a) In relation to the product database suppliers :

- (a) **shall** [] prior to placing a **unit of a []** model covered by an implementing act under **this Regulation** on the market, enter **for that model** into the product database [] the information detailed in Annex I. **A product for which any changes with relevance for the label and the product information sheet are made shall be considered as a new product model.**
- (b) **shall** for models, **units of which are** placed on the market between 1 January 2017 and 31 December 2018, enter into the product database the information set out in Annex I, no later than 1 July 2019. Until the time of data entry into the product database, they shall make an electronic version of the technical documentation available for inspection within 10 days of a request received from market surveillance authorities or the Commission.
- (c) **may** for models, **units of which are** placed on the market before 1 January 2017, enter into the product database the information set out in Annex I.

2. Dealers shall []:

(a) [] display in a visible manner, **including in distance selling via the Internet**, the label provided by the supplier or [] made available **in accordance with subparagraph 2 (b)** for a product covered by an [] **implementing** act;

(aa) make available to customers the product information sheet;

(b) [] where, **despite the provisions of paragraph 1(a)** they do not have a label [] **or product information sheet, they shall** []:

(i) request [] **them** from the supplier; **or**

(ii) print [] **or download them for electronic display** from the product database [], if **these functions are** available for that product; or

(iii) print **them** out [] **or download them for electronic display** from the supplier's website, if **these functions are** available for that product.

(c) [].

3. Suppliers and dealers shall []:

- (a) [] make reference to the energy efficiency class of the product **and the range of the efficiency classes available on the label** in any advertisement or technical promotional material for a specific model [] in accordance with the relevant implementing act **and to the [] energy consumption, unless this is stipulated otherwise by the relevant implementing act;**
- (b) [] cooperate with market surveillance authorities and take immediate action to remedy any situation of non-compliance with the requirements set out in this Regulation and its [] **implementing** acts falling under their responsibility, at their own initiative or when required to do so by market surveillance authorities;
- (c) [] for products covered by [] **implementing acts under** this Regulation, **not** provide or display other labels, marks, symbols or inscriptions which do not comply with the requirements of this Regulation and of the relevant [] **implementing** acts, if this is likely to mislead or confuse customers with respect to the consumption of energy or other resources during use.
- (d) [] for products not covered by [] **implementing acts under** this Regulation, not supply or display labels which mimic the label as defined in this Regulation. **This does not affect labels provided for in Member States' legislation, as long as they are not covered by implementing acts under this Regulation.**

Article 4

Obligations of Member States

1. Member States shall not [] impede, **in relation to matters covered by this Regulation**, the placing on the market or putting into service, within their territories, of [] products which comply with [] **this Regulation and** the relevant [] **implementing acts under this Regulation**.
2. []
3. Where Member States provide any incentives for a [] product covered by this Regulation and specified in an [] **implementing act**, these shall aim at the highest classes of energy efficiency, **in which products are available**, laid down in the applicable [] **implementing act** [].
4. Member States shall ensure that the introduction of labels including rescaled labels and product information sheets is accompanied by educational and promotional information campaigns **on energy labelling** [], if appropriate in cooperation with dealers **and suppliers**. **The Commission shall support cooperation and the exchange of best practices in relation to these campaigns, including through the provision of a core script.**
5. Member States shall lay down the rules on penalties and enforcement mechanisms applicable to infringements of the provisions of this Regulation and its **implementing acts**, and shall take all measures necessary to ensure that they are implemented. The penalties must be effective, proportionate and dissuasive. **Rules fulfilling the requirements of Article 15 of Directive 2010/30/EU shall be considered to fulfil these requirements as regards penalties**. Member States shall notify [] **rules on penalties and enforcement mechanisms that had not previously been notified** to the Commission by the date of application of this Regulation and shall notify without delay any subsequent amendment affecting them.

Article 5

Union market surveillance and control of [] products entering the Union market

1. Articles 16 to 29 of Regulation (EC) No 765/2008 shall apply to [] products covered by this Regulation and its [] **implementing** acts.
2. The Commission shall support cooperation and exchange of information on market surveillance of energy labelling of products among national authorities of the Member States responsible for market surveillance or external border controls and between such authorities and the Commission.

Article 6

[] Procedure at national level for dealing with products presenting a risk []

1. Where the market surveillance authorities of one Member State have sufficient reason to believe that a [] product covered **by this Regulation** [] presents a risk to aspects of public interest protection covered by this Regulation, **such as environmental, consumer protection and economic aspects**, they shall carry out an evaluation in relation to the [] product concerned covering all [] **energy labelling** requirements **relevant to the risk and** laid down in this Regulation **or its** [] **implementing** acts. [] Suppliers **and dealers** shall cooperate as necessary with the market surveillance authorities for that purpose.
2. Where, in the course of that evaluation, the market surveillance authorities find that the [] product does not comply with the requirements laid down in this Regulation and its relevant [] **implementing** acts, they shall without delay require the supplier **or dealer** to take all appropriate corrective action to bring the [] product into compliance with those requirements, **where appropriate** to withdraw the [] product from the market, **or where appropriate**, to recall it within a reasonable period, commensurate with the nature of the risk, as they may prescribe. Article 21 of Regulation (EC) No 765/2008 shall apply to the measures referred to in this paragraph.

3. Where the market surveillance authorities consider that non-compliance is not restricted to their national territory, they shall inform the Commission and the other Member States of the results of the evaluation and of the actions which they have required the supplier **or dealer** to take.
4. The supplier **or dealer** shall ensure that all appropriate corrective action is taken in respect of all the [] products concerned that it has made available on the market throughout the Union.
5. Where the supplier **or dealer** does not take adequate corrective action within the period referred to in the paragraph 2, the market surveillance authorities shall take all appropriate provisional measures to prohibit or restrict the [] product's being made available on their national market, to withdraw the [] product from that market or to recall it. The market surveillance authorities shall inform the Commission and the other Member States, without delay, of those measures.
6. The information referred to in the paragraph 5 shall include all available details, in particular the data necessary for the identification of the non-compliant [] product, the origin of the [] product, the nature of the non-compliance alleged and the risk involved, the nature and duration of the national measures taken and the arguments put forward by the supplier **or dealer**. In particular, the market surveillance authorities shall indicate whether the non-compliance is due to either failure of the [] product to meet requirements relating to aspects of public interest protection laid down in this Regulation or shortcomings in the harmonised standards referred to in Article 9 conferring a presumption of conformity.
7. Member States other than the Member State initiating the procedure shall without delay inform the Commission and the other Member States of any measures adopted and of any additional information at their disposal relating to the non-compliance of the [] product concerned, and, in the event of disagreement with the notified national measure, of their objections.

8. Where, within 60 days of receipt of the information referred to in paragraph 5, no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by a Member State, that measure shall be deemed justified.
9. Member States shall ensure that appropriate restrictive measures, such as withdrawal of the [] product from their market, are taken in respect of the [] product concerned, without delay.

Article 6a

Union safeguard procedure

1. Where, on completion of the procedure set out in [] **Article 6(4)** and (5), objections are raised against a measure taken by a Member State, or where the Commission considers a national measure to be contrary to Union legislation, the Commission shall without delay enter into consultation with the Member States and the supplier **or dealer** and shall evaluate the national measure. On the basis of the results of that evaluation, the Commission shall [] **adopt an implementing act determining** whether the national measure is justified or not.
2. The Commission shall address its decision to all Member States and shall immediately communicate it to them and the supplier **or dealer**.
3. If the national measure [] justified all Member States shall take the measures necessary to ensure that the non-compliant [] product is withdrawn from their market, and shall inform the Commission accordingly. If the national measure is considered unjustified, the Member State concerned shall withdraw the measure.
4. Where the national measure is considered justified and the non-compliance of the [] product is attributed to shortcomings in the harmonised standards referred to in [] **Article 6(6)**, the Commission shall apply the procedure provided for in Article 11 of Regulation (EU) No 1025/2012.

Labels and rescaling

1. The Commission may, **in accordance with the procedures set out in** to Articles 11a and 12, introduce labels or rescale existing labels.
- 1a. Labels shall be re-scaled [] **when technological progress in the relevant product group makes it appropriate. The Commission shall launch a preparatory study with a view to reviewing labels when it estimates that at least 40 percent of the products sold within the Union market fall into the energy class A and further technological development can be expected soon.**
- 1b. **When it is, for technical reasons, impossible to define seven energy classes that correspond to significant energy and cost savings from a customer's perspective, the label may, in exception to Article 2(13), contain fewer classes. In that case, the dark green to red spectrum of the label shall be retained.**
3. The Commission shall ensure that, when a label is introduced or rescaled, the requirements are laid down so that [] no products are expected to fall in energy class A at the moment of the introduction of the label and so that the estimated time within which a majority of models falls into that class shall be at least ten years later.
4. When, for a given product group, no models belonging to energy classes D, E, F or G are allowed to be placed on the market any more because of an implementing measure adopted under Directive 2009/125/EC, the class or classes in question shall no longer be shown on the label **or shall be shaded grey.**

5. When a label is rescaled:

- (a) suppliers shall **supply in accordance with Article 3(1) (a)** [] both the current and the rescaled labels [] for a period of six months before the date specified in paragraph (b).

In addition, suppliers shall deliver the rescaled label on request from dealers in accordance with Article 3(1) (b) for units placed on the market earlier than the period referred to in the first subparagraph.

The second subparagraph of this point shall apply to models, units of which are not placed on the market any more after the start of that period, only if no new testing is required.

Dealers shall obtain a rescaled label in accordance with Article 3(2) (b) for the products referred to in the second and third subparagraph.

- (b) dealers shall replace the existing labels on products on display including on the Internet with the rescaled labels within [] **10 days** following the date specified for that purpose in the relevant [] **implementing** act. Dealers shall not display the rescaled labels before that date.

6. Labels introduced by delegated acts adopted in accordance with Article 10 of Directive 2010/30/EU before the date of application of this Regulation shall be considered as labels for the purposes of this Regulation. **[] In exception to paragraph 1a, the** Commission shall review those labels [] with a view to rescaling them:

(a) within 8 years of the entry into force of this Regulation for labels that cover products using different fuel technologies but with the same label, and for which the average lifetime is more than 15 years;

(b) within five years of the entry into force of this Regulation for other labels.

Product database

1. The Commission shall establish and maintain a product database **for the following purposes:**
 - (a) to [] **facilitate** the market surveillance authorities **in carrying out** their tasks under this Regulation;
 - (b) to provide the Commission with up-to-date energy efficiency information of products for reviews of energy labels;
 - (c) to provide the public with information about products placed on the market, their energy labels and product information **sheets**;
 - (d) to enable suppliers to comply with their obligations under Article 3(1a) points (a) and (b);
 - (e) to enable dealers to comply with [] **their** obligations under Article 3(2) point (b) (ii).
2. **The database shall include** the information referred to in Annex I.
3. **The information shall be entered into the database by suppliers as specified in Article 3(1a) points (a) and (b). Suppliers shall have access and editing rights to the information they entered. A version history of changes shall be kept for market surveillance purposes, keeping track of dates of any editing.**
4. The information listed under point 1 of Annex I shall be made publicly available. **The market surveillance authorities and the Commission shall have access to the information listed under point 2 of Annex I, while ensuring the safeguarding of confidential information.**
5. **The Commission and market surveillance authorities shall ensure that personal data are processed in accordance with Regulation (EC) No 45/2001 and Directive 95/46/EC, as applicable.**

6. The establishment of the database shall take into account the criteria of minimising administrative burden for suppliers and other database users, user-friendliness and cost-effectiveness, and shall ensure appropriate security arrangements and access rights based on the need-to-know principle.
7. The Commission shall be empowered, by means of implementing acts, to specify operational details relating to the product database, including any obligations on suppliers and dealers. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 12a(2).

Article 9

Harmonised standards

After the adoption of an [] **implementing** act under this Regulation setting specific labelling requirements [] the Commission shall, in accordance with Regulation (EU) No 1025/2012¹¹, publish references to harmonised standards that satisfy the relevant measurement and calculation requirements of the [] **implementing** act in the *Official Journal of the European Union*. When during the conformity assessment of a product such harmonised standards are applied, the product shall be [] **presumed to be in conformity** [] with the relevant measurement and calculation requirements of the [] **implementing** act.

Until the relevant measurement and calculation requirements and references to harmonised standards referred to in paragraph 1 have been established, the Commission may publish transitional measurement and calculation methods.

¹¹ OJ L 316, 14.11.2012, p12

Article 10

Consultation

In the conduct of its activities under this Regulation the Commission shall ensure in respect of each delegated **and implementing** act, a balanced participation of Member States' representatives and interested parties concerned with the product group in question, such as industry, including SMEs and craft industry, trade unions, traders, retailers, importers, environmental protection groups and consumer organisations. For this purpose, the Commission shall establish a Consultation Forum in which these parties shall meet. This Consultation Forum [] **shall** be combined with the Consultation Forum referred to in Article 18 of Directive 2009/125/EC.

Where appropriate, [] **when preparing** implementing acts, the Commission shall test the design and content of the labels for specific product groups with [] **costumers** to ensure their clear understanding of the labels.

Article 11

Working plan

The Commission shall, having consulted the Consultation Forum referred to in Article 10, establish a working plan which shall be made publicly available. The working plan shall set out an indicative list of product groups which are considered as priorities for the adoption of **the specific product groups under Article 11a, and [] detailed energy labelling requirements under Article 12.** The working plan shall also set out plans for the revision and rescaling of labels of products or product groups. The working plan [] **shall** be amended periodically by the Commission after consultation with the Consultation Forum. The working plan [] **shall** be combined with the working plan required by Article 16 of Directive 2009/125/EC **and reviewed every three years.**

Article 11a

Specification of product groups

1. The Commission shall be empowered to adopt delegated acts, in accordance with Article 13, [] to establish
[] [] specific product groups of energy related products ('specific product groups') which satisfy the following criteria:
 - (a) according to the most recently available figures and considering the quantities placed on the Union market, the product group shall have significant potential for saving energy and where relevant, other resources;
 - (b) product groups with equivalent functionality shall differ significantly in the relevant performance levels;
 - (c) there shall be no significant negative impact as regards the affordability and the life cycle cost of the product group.;
 - (d) the introduction of energy labelling requirements [] for a product group [] shall not have a significant negative impact on the functionality of the product from the perspective of the user.

Within five years of the entry into force of this Regulation the Commission shall adopt a delegated act which covers as specific product groups all the respective products which are covered by a delegated act adopted according to Directive 2010/30/EU.

Article 12

Introduction of energy labelling requirements

1. **The Commission shall be empowered to specify, by means of implementing acts the detailed requirements relating to labels for [] the specific product groups established under Article 11a [].**
2. **Those implementing acts [] shall specify in particular:**
 - (a) the definition of the specific product group falling under the definition of 'energy-related product' set out in Article 2(11) which [] is to be covered **by the detailed labelling requirements**;
 - (b) the design and content of the label, including a scale showing consumption of energy consisting of A to G, which as far as possible shall have uniform design characteristics across product groups and shall in all cases be clear and legible. **The A-G steps of the classification shall correspond to significant energy and cost savings from the customer's perspective**;
 - (c) where appropriate, the use of other resources and supplementary information concerning energy related products, in which case the label shall emphasise the energy efficiency of the product. **Supplementary information shall be unambiguous and with no negative impact on the clear intelligibility and effectiveness of the label as a whole towards customers. It shall be based on data relating to physical product characteristics that are measurable by market surveillance authorities**;
 - (d) the locations where the label shall be displayed, such as attached to the product, printed on the packaging, provided in electronic format or displayed on line, **taking into account the implications for consumers, suppliers and dealers**;

- (e) where appropriate, electronic means for labelling products;
- (f) the manner in which the label and [] **product information sheet** are to be provided in the case of distance selling;
- (g) the content and, where appropriate, the format and other details concerning the technical documentation and product information sheet;

(ga) that it is prohibited to design products so that a model's performance is altered in test mode with the objective to improve the model's rating on the applicable label;

- (h) that when **Member States** verify compliance with the requirements, only those verification tolerances that are set out in the [] **implementing** act(s) shall apply;

(ha) verification procedures that Member States shall apply;

- (i) the obligations on suppliers and dealers in relation to the product database;
- (j) the specific indication of the energy class to be included in advertisements and technical promotional material, including requirements for this to be in a legible and visible form;
- (k) [] the measurement and calculation methods to be used to determine label and product information sheet information;
- (l) whether for larger appliances a higher level of energy efficiency is required to reach a given energy class;
- (m) the format of any additional references on the label allowing customers to access through electronic means more detailed information on the product performance included in the product information sheet;

- (n) whether and how energy classes describing the product's energy consumption during use should be shown or on the product's interactive display;
- (o) the date for the evaluation **and** possible **consequent** revision of the [] **implementing** act;
- (p) **where appropriate, differences in energy performances in different climatic regions;**
- (q) that the model identifier shall be accessible both to customers and national authorities.**

For the format of references referred to in point (m) of the first subparagraph, those references may take the form of a website address, a Quick Response (QR) code, a link on on-line labels or any other appropriate consumer-oriented means.

3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 12a(2).

[]

Article 12a

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011. [] **This committee shall be the committee** referred to in Article 19 of Directive 2009/125/EC.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 13

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Article 11a [] shall be conferred on the Commission for [] **a period of five years from XXX. The Commission shall draw up a report in respect of the delegation of power not later than six months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.**

- 2a. **It is of particular importance that the Commission follow its usual practice and carry out consultations with experts, including Member States' experts, before adopting those delegated acts. The consultation of Member States' experts shall take place following the consultation pursuant to Article 10.**
3. The delegation of power referred to in Article **11a** [] may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in this Regulation. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article **11a** [] shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period may be extended by two months at the initiative of the European Parliament or of the Council.

Article 14

Evaluation and report

No later than eight years after the entry into force **of this Regulation**, the Commission shall assess the application of this Regulation and transmit a report to the European Parliament and the Council. This report shall assess how effectively this Regulation **and its delegated and implementing acts** have allowed customers to choose more efficient products, taking into account its impacts on business.

Repeal and transitional measures

1. **Subject to paragraph 2, Directive 2010/30/EU is repealed with effect from 1 January 2017.**
2. **Delegated acts adopted pursuant to Directive 2010/30/EU [] are repealed with effect from the moment when an implementing act adopted pursuant to Article 12 of this Regulation and covering the relevant product group applies.**
3. References to **the repealed** Directive [] shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in Annex II.
4. **For the purposes of this Regulation, references to implementing acts adopted pursuant to Article 12 of this Regulation shall be deemed to include references to delegated acts adopted pursuant to Article 10 of Directive 2010/30/EU.**
5. **For models, units of which are placed on the market in accordance with Directive 2010/30/EU before the date of application of this Regulation, suppliers shall, for a period ending five years after the last product was manufactured, make an electronic version of the technical documentation available for inspection within 10 days of a request received from market surveillance authorities or the Commission.**

Article 16

Entry into force

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

It shall apply from 1 January 2017.

Article 3(**1a**) shall apply from 1 January 2019.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

INFORMATION TO BE INCLUDED IN THE PRODUCT DATABASE**1. Publicly available product information:**

- (a) manufacturer's or supplier's name or trademark;
- (b) the model identifier [];
- (c) the label in electronic format;
- (d) the class(es) and other parameters on the label;
- (e) the product information sheet in electronic format.

2. Compliance information, only available to Member States' market surveillance authorities and the Commission:

- (a) the technical documentation specified in the applicable [] **implementing** act;
 - (aa) the model identifier of all equivalent models;**
 - (b) [];
 - (c) name, address **and contact details** of the supplier;
 - (d) [].
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Correlation Table

Directive 2010/30/EU	This Regulation
Article 1(1)	Article 1(1)
Article 1(2)	—
Article 1(3)(a) and (b)	Article 1(2)(a) and (b)
Article 1(3)(c)	—
Article 2	Article 2
Article 2(a)	Article 2(11)
Article 2(b)	Article 2(17)
Article 2(c)	—
Article 2(d)	—
Article 2(e)	—
Article 2(f)	—
Article 2(g)	Article 2(9)
Article 2(h)	Article 2(5)
Article 2(i)	Article 2(2)
Article 2(j)	Article 2(4)
Article 2(k)	—
Article 3	Article 4
Article 3(1)(a)	Article 4(2)
Article 3(1)(b)	Article 3(3)(c)
Article 3(1)(c)	Article 4(4)
Article 3(1)(d)	Article 5(2)

Article 3(2)	Article 3(3)(b) and Article 6
Article 3(3)	Article 5(1)
Article 3(4)	—
Article 4(a)	Article 3(2)
Article 4(b)	—
Article 4(c)	Article 3(3)(a)
Article 4(d)	Article 3(3)(a)
Article 5	Article 3(1) and (3)
Article 5(a)	Article 3(1)(a)
Article 5(b) points (i), (ii), (iii) and (iv)	Article 3(1)(d) and Annex I
Article 5(c)	Article 3(1)(d)
Article 5(d)	Article 3(1)(a)
Article 5(d) second subparagraph	Article 3(1)(b)
Article 5(e)	Article 3(1)(a)
Article 5(f)	—
Article 5(g)	Article 3(1)(a)
Article 5(h)	—
Article 6	Article 3(2) and (3)
Article 6(a)	Article 3(2)(a)
Article 6(b)	Article 3(2)(a)
Article 7	Article 12(3)(d) and (f)
Article 8(1)	Article 4(1)
Article 8(2)	—
Article 9(1)	Repealed by Directive 2012/27/EU
Article 9(2)	Repealed by Directive 2012/27/EU
Article 9(3)	Article 4(3)
Article 9(4)	—

Article 10(1)	Article 12
Article 10(1) second sub paragraph	Article 12(2)
Article 10(1) third sub paragraph	—
Article 10(1) fourth sub paragraph	Article 12(3)(c)
Article 10(2)(a)	Article 12(2)(a)
Article 10(2)(b)	Article 12(2)(b)
Article 10(2)(c)	—
Article 10(3)(a)	—
Article 10(3)(b)	—
Article 10(3)(c)	Article 10
Article 10(3)(d)	—
Article 10(4)(a)	Article 12(3)(a)
Article 10(4)(b)	Article 12(3)(k)
Article 10(4)(c)	Article 12(3)(g)
Article 10(4)(d)	Article 12(3)(b)
Article 10(4)(d) second sub paragraph	—
Article 10(4)(d) third sub paragraph	Article 12(3)(b)
Article 10(4)(d) fourth sub paragraph	Article 7(3)
Article 10(4)(d) fifth sub paragraph	Article 7
Article 10(4)(e)	Article 12(3)(d)
Article 10(4)(f)	Article 12(3)(g)
Article 10(4)(g)	Article 12(3)(j)
Article 10(4)(h)	Article 7(3)
Article 10(4)(i)	Article 12(3)(h)
Article 10(4)(j)	Article 12(3)(o)
Article 11(1)	Article 13(2)
Article 11(2)	Article 13(4)

Article 11(3)	Article 13(1)
Article 12(1)	Article 13(3)
Article 12(2)	—
Article 12(3)	Article 13(3)
Article 13	Article 13(5)
Article 14	Article 14
Article 15	Article 4(5)
Article 16	—
Article 17	Article 15
Article 18	Article 16
Article 19	Article 16
Annex I	—
-	Annex I
Annex II	Annex II