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NOTE

from:	General Secretariat
to:	Permanent Representatives Committee/Council
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) - Outcome of the European Parliament's first reading (Strasbourg, 4-7 May 2009)

I. INTRODUCTION

The Rapporteur, Mrs Anni PODIMATA (PES - EL), presented a report on behalf of the Committee on Industry, Research and Energy consisting of 52 amendments (amendments 1-52).

In addition, the ALDE political group tabled six amendments (amendments 53-58), the EPP/ED political group tabled five amendments (amendments 59-63), the PES, the Greens/EFA and the EUL/NGL political groups tabled eight amendments (amendment 64-71), the Greens/EFA political group tabled four amendments (amendments 72-75) and the PES political group tabled one amendment (amendment 76).

II. DEBATE

The debate, which was held on 5 May 2009, was opened by the Rapporteur who

- welcomed the proposal of the Commission, which is part of a broader package, and which will help to promote more energy efficient products and will support the economy at this moment of recession and crisis;
- noted that the inclusion of public procurement in the scope is foreseen by the Committee report. Criteria for setting minimum performance levels for public procurement should include information on the potential for energy savings and the promotion of innovation;
- stated that whenever advertisement for a specific product mentions technical specifications, a reference to the energy consumption or a possible energy saving or a reference to the energy group of a product should be obligatory;
- supported the existing "A-G" scale of classification for the energy group of a product which is a very successful system that everybody understands. The problem is the fact that it is not clear how long the classification will be valid. The Rapporteur proposed that the classification should be understood as valid for the life span of a product (i.e. 3-5 years), after which time a reassessment is needed.

Speaking on behalf of the Commission, Commissioner PIEBALGS

- noted that the objectives of the Commission proposal are to bring further benefits to European citizens, industry and public authorities by extending the scope to all energy-related products, by strengthening market surveillance and by encouraging energy-efficient public procurement practices;
- welcomed the report from the Committee on Industry, Research and Energy, which adds some very significant improvements to the proposal and which are welcomed by the Commission. The first is the issue of advertising and how far the promotion of energy-efficient product selling practices should go. The second is the issue of the layout of the label - whether it should be a closed label or an open-ended scale label;
- stated that the Commission is ready to work closely with the Council and the European Parliament to find a speedy and balanced solution at second reading.

Speaking on behalf of the EPP/ED political group, Mr Jan BREZINA (EPP/ED - CZ)

- noted that the proposal on energy labelling can lead to a quick and very cost-effective way of reducing greenhouse gas emissions and can address the problem of the current economic recession by creating long-lasting growth and solid job opportunities through the production of energy-efficient products;
- stressed the importance of full information on the label of a product for the end-user and the reinforcement of the provisions on the market surveillance;
- spoke against amendment 32 of the report which would hamper the independence of the media.

Speaking on behalf of the PES political group, Ms Silvia-Adriana TICAU (PES -RO)

- stressed the importance of the reduction of energy in products and the full information of the consumer on the label regarding the energy classification of a product;
- supported the existing system of energy labelling by the means of the "A-G" scale.

Speaking on behalf of the Greens/EFA political group, Ms Satu HASSI (Greens/EFA - FI)

- supported the report of the Committee on Industry, Research and Energy regarding the preservation of the current labelling system and the "A-G" scale.;
- stated that a label with an "A" marking must always be a first class product regarding its energy efficiency. The model proposed by the producers is not up-to-date and can therefore not be supported.

III. VOTE

When it voted on 5 May 2009, the plenary adopted 54 amendments (amendments 1-5, 7-15, 17-28, 29 (in part), 30-33, 35-36, 38-43, 45, 47, 50-54, 56, 58-59, 64-72, 74, 76).

The text of the European Parliament's legislative resolution and the amendments adopted are annexed to this note.

Energy labelling and standard product information (recast) *I**

European Parliament legislative resolution of 5 May 2009 on the 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) (COM(2008)0778 – C6-0412/2008 – 2008/0222(COD))

(Codecision procedure – recast)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0778),
 - having regard to Article 251(2) and Article 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0412/2008),
 - having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts¹,
 - having regard to the letter of 11 March 2009 from the Committee on Legal Affairs to the Committee on Industry, Research and Energy in accordance with Rule 80a(3) of its Rules of Procedure,
 - having regard to Rules 80a and 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, Research and Energy (A6-0146/2009),
- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the proposal in question does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance,
1. Approves the Commission proposal as adapted to the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission as amended below;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

¹ OJ C 77, 28.3.2002, p. 1.

Amendment 1
Recital 2

Text proposed by the Commission

(2) The scope of Council Directive 92/75/EEC is restricted to household appliances; the Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan has shown that the extension of the scope of the Directive to energy-related products which have ***an*** 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 Council, ***and bring additional energy savings and environmental gains.***

Amendment

(2) The scope of Council Directive 92/75/EEC is restricted to household appliances; the Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan has shown that the extension of the scope of the Directive to energy-related products, ***including construction 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 Council. ***This Directive should complement and in no way prejudice the application of Directive 2005/32/EC. By targeting through a holistic approach and bringing about additional energy savings and environmental gains, this Directive should be seen as part of an even broader legal framework, which includes Regulation (EC) No 1980/2000 of the European Parliament and of the Council of 17 July 2000 on a revised Community eco-label award scheme¹ and Directive 2002/91/EC of the European Parliament and of the Council of 16 December 2002 on the energy performance of buildings².***

¹ OJ L 237, 21.9.2000, p. 1.

² OJ L 1, 4.1.2003, p. 65.

Amendment 2
Recital 2 a (new)

Text proposed by the Commission

Amendment

(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 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.

Amendment 3
Recital 2 b (new)

Text proposed by the Commission

Amendment

(2b) In order to promote energy efficiency and energy savings, it is, furthermore, essential that the EU and Member States make legally binding the 2020 energy saving target of 20%, and propose and implement consistent measures to secure its achievement.

Amendment 72
Recital 2 c (new)

Text proposed by the Commission

Amendment

(2c) Improving efficiency of energy-related products through informed consumer choice benefits the EU economy overall and also the manufacturing industry through reducing the carbon price in the emissions trading scheme.

Amendment 4
Recital 3

Text proposed by the Commission

(3) The provision of accurate, relevant and comparable information on the specific energy consumption of energy-related products **may** 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 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.

Amendment

(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 **the** 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.

Amendment 5
Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) Given that buildings account for 40 % of total energy consumption in the EU and that the revision of Directive 2002/91/EC aims at promoting cost-effective improvement of the overall energy performance of buildings, the inclusion in this context of certain energy-related construction products within the scope of this Directive should assist private households in choosing the most energy- and cost-efficient product when renovating their buildings.

Amendments 53 and 64
Recital 3 b (new)

Text proposed by the Commission

Amendment

(3b) In order to ensure predictability for manufacturers and clarity for end-users, the Commission should produce a priority list of energy-related products, including construction products, that fall within the scope of this Directive, and which consequently will be covered by the Member States and the Commission's implementation measures.

Amendment 7
Recital 4

Text proposed by the Commission

Amendment

(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 **energy** consumption of and other information concerning the products should be measured in accordance with harmonized standards and methods.

(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.

Amendment 74
Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) As pointed out in the Commission Impact Assessment accompanying its proposal for this Directive, the original, successful A-G label has been followed as a model in different countries around the world, such as Brazil, China, Argentina, Chile, Iran, Israel and South Africa.

Amendment 8
Recital 5

Text proposed by the Commission

Amendment

(5) Member States should monitor compliance with this Directive with special regard to the responsibilities of suppliers and dealers.

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

Amendment 9
Recital 6

Text proposed by the Commission

Amendment

(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 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 .

(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 ***mandatory*** labelling and standard product fiches.

Amendment 10
Recital 7

Text proposed by the Commission

(7) Energy-related products have **an** 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 **an** impact on the consumption of any form of energy.

Amendment

(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, in accordance with the EU's targets for energy efficiency improvements, the promotion of renewable energy sources (RES) and the reduction of greenhouse gas (GHG) emissions.**

Amendment 11
Recital 8

Text proposed by the Commission

(8) **Only** energy-related products which have a significant 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.

Amendment

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

Amendment 12
Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) Given that buildings account for 40% of total energy consumption in the EU and that, in the context of its commitments in the Kyoto Protocol, the EU has set a target of improving its energy efficiency by 20% by the year 2020, it is essential to prioritise

development of implementing measures for construction products, such as windows.

Amendment 13
Recital 9

Text proposed by the Commission

(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, may reduce fragmentation of public procurement and incentives and facilitate the uptake of efficient products;

Amendment

(9) *The* number of Member States *having* public procurement policies in place which require contracting authorities to procure energy efficient products, *should continually be increased until the goal of covering the entire territory of the European Union is achieved. The same should apply to the* number of Member States *that* have in place incentives for energy efficient products. *In order to avoid distortion of the market, and although the* criteria for products to be eligible for public procurement or incentives can substantially differ from one Member State to the other, *they should comply with the strategic targets of the European Union regarding energy efficiency.* To refer to performance classes as levels for particular products as set out in implementing measures to the Directive, may reduce fragmentation of public procurement and incentives and facilitate the uptake of efficient products;

Amendment 14
Recital 11

Text proposed by the Commission

(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;

Amendment

(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. *However, State aid for environmental*

protection, and in particular for energy savings, that serves a common European interest is subject to exemptions pursuant to different Community instruments and under the conditions prescribed therein¹;

¹OJ C 82, 1.4.2008, p. 1.

Amendment 15 Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) The provisions of this Directive concerning the content of advertisements should only be considered as an extraordinary measure. These provisions should therefore not restrict advertising in any other way under any other Community legislation.

Amendments 54 and 65 Recital 14

Text proposed by the Commission

Amendment

(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. 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;

(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. The Commission should, every two years, submit to the European Parliament a report, covering the EU and each Member State separately, containing detailed information on the adoption of the implementing measures, as well as standard product information. In order to create a system that is both predictable for the industry and comprehensible for consumers, the Commission should be responsible for setting a fixed duration period for the energy label classification(s) and for updating the classification efficiency index thresholds on a recurring and regular basis.*** 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;

Amendment 17
Recital 15 a (new)

Text proposed by the Commission

Amendment

(15a) When Member States implement the relevant provisions of this Directive, they should strive to refrain from measures that could impose unnecessarily bureaucratic and unwieldy obligations on small and medium-sized enterprises (SMEs), and, to the extent feasible, take into consideration the special needs and financial and administrative limits of SMEs.

Amendment 18
Article 1 – paragraph 1

Text proposed by the Commission

Amendment

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 of other essential resources, and supplementary information concerning energy-related products, thereby allowing end-users to choose more efficient products.

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 of other essential resources ***during use***, and supplementary information concerning energy-related products, thereby allowing end-users to choose more efficient products.

Amendment 19
Article 1 – paragraph 2

Text proposed by the Commission

2. This Directive shall apply to energy-related products which have a significant impact on the consumption of energy and, where relevant, **on** other essential resources during use.

Amendment

2. This Directive shall apply to energy-related products, **including construction products**, which have a significant **direct or indirect** impact on the consumption of energy and, where relevant, other essential resources during use.

Amendment 20
Article 2 – indent 1 a (new)

Text proposed by the Commission

Amendment

- construction product: an energy-related product used in the construction or renovation of buildings;

Amendment 59
Article 2 – indent 3

Text proposed by the Commission

Amendment

- "other essential resources" means water, **chemicals** or any other substance consumed by a product in normal use;

- "other essential resources" means water, **raw materials** or any other substance consumed by a product in normal use;

Amendment 21
Article 2 – indent 4

Text proposed by the Commission

Amendment

- "supplementary information" means other information concerning the performance and features of a product, which relate to, or are helpful in evaluating, its use of energy or other essential resources;

- "supplementary information" means other information concerning the performance and features of a product, which relate to, or are helpful in evaluating, its use of energy **per unit time** or other essential resources, **based on measurable data including that relating to its manufacture or any other significant environmental aspect thereof**;

Amendment 22
Article 2 – indent 5 a (new)

Text proposed by the Commission

Amendment

- ‘direct impact’ means the impact of products that actually consume energy;

Amendment 23
Article 2 – indent 5 b (new)

Text proposed by the Commission

Amendment

- ‘indirect impact’ means the impact of products that do not consume energy, but contribute to energy consumption whereby the evaluation of the performance of these products shall be based on objective and independent parameters that do not present a climatic variation;

Amendment 24
Article 2 – indent 7 a (new)

Text proposed by the Commission

Amendment

- "end-user" means the legal or natural person who uses a product for professional or personal purposes. This person is the ultimate consumer of a product, and in particular the person for whom the product has been designed, and may differ from the person who purchases the product. This definition covers private consumers and groups of consumers. When purchasing energy-related products, public authorities shall also be regarded as "end-users" for the purposes of this Directive;

Amendment 66
Article 3 – paragraph 1 – point a

Text proposed by the Commission

Amendment

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

(a) all suppliers and dealers established in their territory fulfil their obligations as referred to in Articles 5, 6 **and Article 9a (3) and (4)** of this Directive;

Amendment 25
Article 3 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(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;

(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**;

Amendment 26
Article 3 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(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 **encouraging** more responsible use of energy by end-users ;

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

Amendment 27
Article 3 – paragraph 1 – point d – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 28
Article 3 – paragraph 2

Text proposed by the Commission

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 the conditions imposed by the Member State.

Where there is sufficient evidence that a product may be non-compliant, the Member State concerned shall take the necessary preventive measures.

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

Amendment

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. ***With regard to the products which have already been purchased, consumers shall have the rights already prescribed in Community and national legislation on consumer protection, including compensation or exchange of the product.***

Where there is sufficient evidence that a product may be non-compliant, the Member State concerned shall, ***within a specific timeframe***, take the necessary preventive measures ***to ensure compliance with the requirements of this Directive, taking into account any damage caused by the non-compliance.***

In case of persistent non-compliance, 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.

restriction, 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.

Amendment 29
Article 3 – paragraph 3 – subparagraph 2

Text proposed by the Commission

The Commission may specify the details of the common content of these reports. Such 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).

Amendment

The Commission may specify the details of the common content of these reports, **through the setting of minimum requirements for a harmonised template**. Such 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).

Amendment 30
Article 4 – point 1

Text proposed by the Commission

(1) information relating to the consumption of electric energy, other forms of energy and other essential resources, 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;

Amendment

(1) information relating to the consumption of electric energy, other forms of energy and 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;

Amendment 31
Article 4 – point 2

Text proposed by the Commission

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

Amendment

(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;

Amendment 32
Article 4 – point 2 a (new)

Text proposed by the Commission

Amendment

(2a) any advertisement for a specific model of energy related products covered by an implementing measure under this Directive, where technical specifications are disclosed, shall provide end-users with the necessary information regarding energy consumption or energy savings or include a reference to the energy class of the product;

Amendment 33
Article 4 – point 2 b (new)

Text proposed by the Commission

Amendment

(2b) any technical promotional literature 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 label of the product;

Amendment 35
Article 5 – point 5

Text proposed by the Commission

Amendment

(5) in addition to the labels, suppliers provide a product fiche **with each product**.

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

Amendment 36
Article 6 – point 1

Text proposed by the Commission

Amendment

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

(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.

Amendment 67
Article 6 – point 2

Text proposed by the Commission

Amendment

(2) in respect of labelling and product information, whenever a product specified in an implementing measure is displayed, dealers attach **an** appropriate label, in the clearly visible position specified in the applicable implementing measure, and in the relevant language version.

(2) in respect of labelling and product information, whenever a product specified in an implementing measure is displayed, dealers attach **the latest version of the** appropriate label **upon expiration of the validity period**, in the clearly visible position specified in the applicable implementing measure, and in the relevant language version.

Amendments 56 and 68
Article 7

Text proposed by the Commission

Amendment

Where products are offered for sale, hire or hire-purchase by mail order, by catalogue, via internet or by any other means which imply that the potential end-user cannot be expected to see the product displayed,

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

implementing measures shall make provision to ensure that potential end-users are provided with the information specified on the label and in the fiche before buying the product.

product displayed, implementing measures shall make provision to ensure that potential end-users are provided with the information specified on ***the latest version of the label for the product*** and in the fiche before buying the product. ***In cases of distance selling, implementing measures shall specify the way that the label and the fiche shall be displayed.***

Amendment 38 **Article 8 – paragraph 1**

Text proposed by the Commission

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 the applicable implementing ***measure***.

Amendment

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 ***fully*** comply with ***this Directive and*** the applicable implementing ***measures***.

Amendment 39 **Article 8 – paragraph 2**

Text proposed by the Commission

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

Amendment

2. ***Provided that Member States monitor the market regularly and*** unless they have evidence to the contrary, ***they*** shall consider labels and fiches to comply with the provisions of this Directive and the implementing measures. Member States shall require suppliers to provide evidence within the meaning of Article 5 concerning the accuracy of the information supplied on their labels or fiches when they have reason to suspect it is incorrect.

Amendment 40
Article 9 – paragraph 1

Text proposed by the Commission

1. 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 not procure products which do not meet the minimum performance levels laid down in the applicable implementing measure.

Amendment

1. 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 not procure products which do not meet the minimum performance levels laid down in the applicable implementing measure, ***and aiming at the highest class of efficiency, which do not meet the criteria, as set out in paragraph 2.***

Amendment 41
Article 9 – paragraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(ba) the potential for energy savings,

Amendment 42
Article 9 – paragraph 2 – point b b (new)

Text proposed by the Commission

Amendment

(bb) the promotion of innovation, in accordance with the Lisbon Strategy,

Amendment 43
Article 9 – paragraph 5

Text proposed by the Commission

5. When Member States publicly procure or provide incentives for products, they shall express the performance levels in terms of classes as defined in the applicable implementing measure.

Amendment

5. When Member States publicly procure or provide incentives for products, they shall express the performance levels in terms of classes as defined in the applicable implementing measure.

Incentives may, inter alia, include tax credits, both for end-users using highly energy-efficient products and for industries who promote and produce such products, and reduced value added tax on materials and components, which improve energy efficiency. The incentives provided by Member States shall be effective and efficient.

Amendment 69
Article 9 a (new)

Text proposed by the Commission

Amendment

Article 9a

***Review of the energy label
classification(s)***

- 1. The Commission shall be responsible for reviewing the energy label classification(s) on a recurring regular basis, in accordance with the fixed duration of the classification(s) as determined through the implementing measures under Article 11.***
- 2. The Commission shall base the review of the classification efficiency index thresholds on the most recently available figures, taking into account the speed of technological progress of the product in question, and shall well in advance of the review carry out appropriate consultation with stakeholders in accordance with Article 11(3).***
- 3. Suppliers shall be obliged to supply the latest version of the label, at the latest upon expiration of the validity period, to the dealers.***
- 4. Dealers shall be obliged to replace the old label with the energy label with the reviewed classifications for the relevant product on the same day as the old label expires in accordance with Article 6(2).***

Amendment 76
Article 11 – paragraph 1 - subparagraph 4 a (new)

Text proposed by the Commission

Amendment

The implementing measures currently in force, which have been adopted before the entry into force of this Directive, shall be aligned with the provisions contained in this Directive, notably as regards the layout, design, classes or other features of the Energy Label not later than six months after the entry into force of this Directive.

Amendment 45
Article 11 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(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;

(c) the Commission shall take into account relevant Community legislation and self-regulation, such as voluntary agreements, **where they** are expected to achieve the policy objectives more quickly or at lesser expense than mandatory requirements;

Amendment 47
Article 11 – paragraph 3 – point c

Text proposed by the Commission

Amendment

(c) carry out appropriate consultation with stakeholders;

(c) carry out appropriate consultation with stakeholders, **including manufacturers and their suppliers**;

Amendment 70
Article 11 – paragraph 4 – point d

Text proposed by the Commission

Amendment

(d) the design and content of the label referred to in Article 4, which as far as possible shall have uniform design characteristics across product groups;

(d) the design and content of the label referred to in Article 4, which as far as possible shall have uniform design characteristics across product groups ***and shall in all cases be clearly visible and legible, and at the same time retain as a basis the main elements of the current label (closed-scale A-G classification), which are simple and recognisable; the label shall also indicate a period of validity;***

Amendments 58 and 71
Article 11 – paragraph 4 – point j

Text proposed by the Commission

Amendment

(j) the duration of label classification(s), ***where appropriate;***

(j) the ***fixed*** duration of ***the*** label classification(s), ***which shall be a time period of at least three years, but not exceeding five years, taking into consideration the pace of innovation of the product, and the date of their next review, based on their fixed duration;***

Amendment 50
Article 11 a (new)

Text proposed by the Commission

Amendment

Article 11a

Priority list for implementation

The Commission shall, no later than six months after the entry into force of this Directive, communicate to the European Parliament and Member States a list of priority products, including construction products, which are proposed for labelling, based on their energy saving potential.

Amendment 51
Article 11 b (new)

Text proposed by the Commission

Amendment

Article 11b

Feasibility for extension of scope

No later than 2010, the Commission shall carry out a feasibility study to examine whether, through adoption of implementing measures, the label shall also provide information to end-users regarding the product's impact on significant energy and other essential resources throughout its entire life cycle.

Amendment 52
Article 12

Text proposed by the Commission

Amendment

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 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.

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 and shall take the necessary measures to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. ***Member States shall also take the necessary measures to strengthen the legal protection against unauthorised use of labelling.*** 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.
