



Council of the European Union

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Brussels, 5 April 2017

Mr Jerzy Buzek

Chair, European Parliament Committee on Industry, Research and Energy
STRASBOURG

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 (COD 2015/0149)

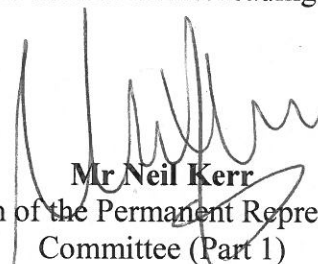
Dear Mr Buzek,

Following the outcome of the informal trilogue between the representatives of the three institutions held on 21 March 2017 in the European Parliament regarding the Regulation in subject, the text of the draft compromise package was agreed today by the Permanent Representatives Committee.

I am therefore now in a position to confirm that, should the European Parliament adopt its position at first reading, in accordance with Article 294 paragraph 3 of the Treaty, in the exact form as set out in the compromise package contained in the Annex to this letter, but subject to revision by the legal linguists of both institutions, the Council would, in accordance with Article 294, paragraph 4 of the Treaty, approve the European Parliament's position and the act shall be adopted in the wording which corresponds to the European Parliament's position.

On behalf of the Council I also wish to thank you for your close cooperation and expert Chairmanship which should enable us to reach agreement on this dossier at first reading.

Yours sincerely,


Mr Neil Kerr
Chairman of the Permanent Representatives
Committee (Part 1)

copy to: **Mr Arias Cañete**, Commissioner
Mr Dario Tamburrano, EP Rapporteur



Council of the
European Union

Brussels, 5 April 2017

**Interinstitutional File:
2015/0149 (COD)**

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

The Annex contains the consolidated compromise text of the above draft Regulation, subject to revisions by the legal linguists of both Institutions.

Annex III contains the interinstitutional statement on Articles 290 and 291 TFEU, and Annex IV contains the Commission statement on financial compensation for consumers.

PE-CONS No/YY – 2015/0148 (COD)

**REGULATION (EU) NO .../2017
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

of ...

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,

After consulting the Committee of the Regions ,

Acting in accordance with the ordinary legislative procedure²,

¹ OJ C 82, 3.3.2016, p. 6.

² Position of the European Parliament of ... (not yet published in the Official Journal) and decision of the Council of ...

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.
- (2) Energy labelling *enables* consumers to make informed choices *based on the* energy consumption of products . *Information on efficient and sustainable energy-related products makes a significant contribution to energy savings and to reducing energy bills, while at the same time promoting innovation and investments into the production of more energy efficient products. Improving the efficiency of energy-related products through informed consumer choice and harmonising related requirements at Union level benefits also manufacturers, industry and the EU economy overall.*
- (3) *The Commission reviewed the effectiveness of* Directive 2010/30/EU of the European Parliament and of the Council³ . The *review* identified the need to update the *energy labelling* framework to improve its effectiveness.

³ *Directive 2010/30/EU of the European Parliament and of the Council of 19 May 2010 on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products* (OJ L 153, 18.6.2010, p. 1).

- (4) It is appropriate to replace Directive 2010/30/EU by a Regulation which maintains *essentially* the same scope, but modifies and enhances some of its provisions in order to clarify and update their content *taking into account the technological progress for energy efficiency in products achieved over recent years. 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, including means of transport whose motor stays in the same location during operation, such as elevators, escalators and conveyor belts.*
- (5) *It is appropriate to clarify that all products placed on the Union market for the first time, including second hand imported products, should fall under the scope of the Regulation. This does not include products that are being made available on the Union market for a second or additional time.*
- (6) A Regulation is the appropriate legal instrument as it imposes clear and detailed rules which *preclude* divergent transposition by Member States and *thus* ensures a higher degree of harmonisation across the Union. A harmonised regulatory framework at Union rather than at Member State level *reduces* costs for manufacturers, ensures a level playing field *and* ensures the free movement of goods across the *internal market*.

- (7) Moderating energy demand is recognised as a key action in the European Energy Security Strategy . The Energy Union Framework Strategy further emphasised the energy efficiency first principle and the need to fully implement existing Union energy legislation. ***The Roadmap of the Energy Union Framework Strategy*** 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.
- (8) Improving the efficiency of energy-related products through informed *customer* choice benefits the Union economy, ***reduces energy demand and saves money on energy bills. It also contributes to innovation and investments into energy efficiency, and allows industries which develop and produce the most energy efficient products to gain a competitive advantage. It will also*** contribute to the achievement of the Union's 2020 and 2030 energy efficiency targets, ***as well as to the Union's environmental and climate goals. It also aims to have a positive impact on the environmental performance of the energy-related product and its parts, including its use of resources other than energy.***
- (9) ***This Regulation should contribute to the development, recognition by customers and market uptake of energy smart products, which can be activated to interact with other appliances and systems, including the energy grid itself, in order to improve energy efficiency or the uptake of renewable energies, reduce energy consumption and foster innovation of the European industry.***

- (10) 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 *for energy-related products* is an effective mean to provide potential customers with comparable information on the energy *efficiency* of energy-related products. *The label* 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. *In order for the label to be of real use for consumers looking for energy and cost savings, the steps of the label scale should correspond to energy and cost savings that are significant to consumers. For the majority of product groups, the label, where appropriate, should also indicate the absolute energy consumption in addition to the label scale, in order to allow consumers to foresee the direct impact of their choices on their energy bills. However, it is impossible to provide this information for energy-related products that do not consume energy themselves.*

- (11) ***The known*** classification using letters from A to G has shown to be ***cost*** effective for ***customers. Its uniform application across product groups should raise transparency and understanding among*** customers. In situations where because of ecodesign measures ***pursuant to Directive 2009/125/EC of the European Parliament and of the Council⁴*** products can no longer fall into classes 'E', 'F' or 'G', those classes should ***nonetheless*** be shown on the label ***in grey. In exceptional and duly justified cases, such as reaching insufficient savings across the full spectrum of the seven classes, the label may contain fewer classes than a regular A G scale. In these cases the dark green to red colour scale of the label should be retained for the remaining upper classes and should only apply to new products placed on the market.***

⁴ ***Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products (OJ L 285, 31.10.2009, p. 10).***

- (12) *When suppliers place a product on the market, each unit of the product should be accompanied by a label in a paper form complying with the requirements of the relevant delegated act. If the delegated act allows, the label may instead be printed on the packaging of the product. The relevant delegated acts adopted pursuant to this Regulation should set out the most effective way of displaying the labels, taking into account implications for customer, suppliers and dealers. The dealer should be able to display the supplied label together with the unit in the position required by the relevant delegated act. The label should be clearly visible and identifiable as the label belonging to the product in question, without the customer having to read the brand name and model number on the label.*
- (13) *Without affecting the obligation of the supplier to accompany each unit of a product with a printed label, advances in digital technology should allow for the use of electronic labels complementary to the printed energy label. The option for the dealer to download the product information sheet from the product database should also be allowed.*
- (14) *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, and the range of the efficiency classes available on the label.*

- (15) Manufacturers respond to the energy label by *developing and placing on the market* ever more efficient products. *In parallel, they tend to discontinue the production of less efficient products, stimulated to do so by Union law relating to ecodesign.* This technological development leads to *the majority of product models* populating the highest classes of the energy label. Further product differentiation may be necessary to *enable* customers *to compare products properly*, 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.

- (16) *For several labels established by delegated acts adopted pursuant to Directive 2010/30/EU, products are available only or mostly in the top classes, thereby reducing the effectiveness of the label. The classes on existing labels, depending on the product group have varying scales, where the top class can be anything between A to A+++.* As a result, when consumers compare labels across different product groups, *they can be induced to believe that for a given label, better energy classes exist than those that are displayed. To avoid such potential confusion, it is appropriate to carry out as a first step an initial rescaling of existing labels, in order to ensure a homogeneous A-G scale, according to three categories of products pursuant to this Regulation.*

- (17) *Energy labelling of space and water heating products was only introduced recently and the rate of technological progress in those product groups is relatively slow. The current labelling scheme makes a clear distinction between conventional fossil fuel technologies that are at best A class, and technologies that use renewable energy, for which the A+, A++ and A+++ classes are reserved, but which are often significantly more expensive. Substantial energy savings can already be achieved by the most efficient fossil fuel technologies, which would make it appropriate to continue promoting as being A class. As the market will shift at a slow pace to renewable technologies, it is appropriate to rescale the energy labels for space and water heating at a later stage.*
- (18) *Following initial rescaling, the frequency of further rescaling should be determined by the percentage of products sold that are in the top classes. It should take into account the speed of technological progress and the need to avoid over burdening suppliers and dealers, and in particular small businesses. Therefore, for the frequency of such rescaling a timescale of approximately ten years would be desirable. A newly-rescaled label should have **one** empty top class to encourage technological progress, **provide for regulatory stability, limit the frequency of rescaling** and enable ever more efficient products to be developed and recognised. **In exceptional cases, where technology is expected to develop more rapidly, requirements should be laid down so that no products are expected to fall in the top two classes at the moment of the introduction of the newly-rescaled label.***

- (19) ***When rescaling, the Commission should carry out an appropriate preparatory study.***
- (20) ***When a label for a product group is rescaled, customers' confusion should be avoided by replacing labels displayed in shops on the affected products within a short timeframe, and by organising adequate consumer information campaigns clearly indicating that a new version has been introduced.***
- (21) 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 delegated act on the rescaled label. Dealers should not display the rescaled labels before the date of replacement.
- (22) 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 ensure that they only make available on the market products which are in conformity with this Regulation and its delegated acts.

- (23) 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 energy 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 such products.* Additional labels, marks, symbols or inscriptions that are likely to mislead or confuse customers with respect to the consumption of energy *for the product concerned should not be allowed for the same reason. Labels provided for pursuant to Union law, 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.*
- (24) *Increasingly, customers are offered software or firmware updates of their products after these have been placed on the market and put into use. While such updates are typically intended to improve product performance, they may also impact the energy efficiency and other product parameters indicated on the energy label. If those changes are to the detriment of what is indicated on the label, customers should be informed about those changes and be given the option to accept or refuse the update.*

- (25) 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 Council⁵ 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)*.
- (26) *The Commission proposal for a new regulation on market surveillance of products integrates the provisions of Regulation (EC) No 765/2008, Directive 2001/95/EC of the European Parliament and of the Council⁶ and several sector-specific acts of Union harmonisation legislation. That proposal includes provisions on safeguard clauses contained in Decision No 768/2008/EC of the European Parliament and of the Council⁷ that would apply to all Union harmonisation legislation. As long as the new regulation is still under consideration by the co-legislators, it is appropriate to refer to Regulation (EC) No 765/2008 and to include safeguard clauses in this Regulation.*

⁵ *Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).*

⁶ *Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety (OJ L 11, 15.1.2002, p. 4).*

⁷ *Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC (OJ L 218, 13.8.2008, p. 82).*

- (27) *Market surveillance activities covered by Regulation (EC) No 765/2008 are not directed exclusively towards the protection of health and safety, but are also applicable to the enforcement of Union legislation which seeks to safeguard other public interests, including energy efficiency. In line with the Commission's market surveillance action plan for safer and compliant products for Europe, the EU general risk assessment methodology has been updated so that it covers all risks, including those related to energy labelling.*
- (28) *Coherent and cost-effective market surveillance activity throughout the Union also requires well-structured, comprehensive archiving and sharing of all pertinent information among Member States on national activities in this context, including a reference to notifications required by this Regulation. The Information and Communication System for Market Surveillance' (ICSMS) database established by the Commission is well suited for the purpose of forming a complete database of market surveillance information, and its use should therefore be strongly encouraged.*

- (29) *In order to set up a useful tool for consumers, to allow for alternative ways for dealers to receive product information sheets, 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, the Commission should set up and maintain a product database consisting of a public and a compliance part, which should be accessible via an online portal.*
- (30) *Without prejudice to the Member States' market surveillance obligations and to supplier' obligations to check product conformity, suppliers should make the required product compliance information available electronically in the database. The information relevant for consumers and dealers should be made publicly available in the public part of the product database. That information should be made available as open data so as to give 'app' developers and other comparison tools the opportunity to use it. Easy direct access to the public part of the product database should be facilitated by user-oriented tools, such as a dynamic quick response code (QR), included on the printed label.*

- (31) *The compliance part of the database should be subject to strict data protection rules. The required specific parts of the technical documentation in the compliance part should be made available both to market surveillance authorities and to the Commission. Where some technical information is so sensitive that it would be inappropriate to include it in the category of technical documentation as detailed in the relevant delegated acts adopted pursuant to this Regulation, market surveillance authorities should retain the power to access that information when necessary in accordance with the duty of cooperation on suppliers or by way of additional parts of the technical documentation uploaded to the database by suppliers on a voluntary basis.*
- (32) *In order for the product database to be of use as soon as possible, registration should be mandatory for all models, units of which are placed on the market after the date of entry into force of this Regulation. For models, units of which were placed on the market only before the date of entry into force of this Regulation but which are no longer marketed, such registration should be optional. At the same time, an appropriate transitional period should be given for the development of the database and for suppliers to comply with their registration obligation. When any changes with relevance for the label and the product information sheet are made to a product already on the market, the product should be considered as a new model and the supplier should be obliged to register it in the product database. The Commission, in cooperation with market surveillance authorities and suppliers, should pay special attention to the transitional process until the full implementation of the public and compliance parts of the product database.*

- (33) The penalties applicable to infringements of the provisions of this Regulation and *implementing* acts adopted under it should be effective, proportionate and dissuasive.
- (34) 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 (*TFEU*) in respect of such incentives.

- (35) 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. *Such methods and standards should as much as possible take into account the real-life usage of a given product, reflect average consumer behaviour and be robust in order to deter intentional and unintentional circumvention. Energy labels should reflect the comparative performance of the actual use of products, within the constraints due to the need of reliable and reproducible laboratory testing. Therefore, suppliers should not be allowed to include software or hardware that automatically alters the performance of the product in test conditions.* 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.

- (36) The Commission should provide a ***long-term*** working plan for the revision of labels ***for*** particular ***energy-related*** 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 ***of providing*** 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.
- (37) ***In spite of the repeal of Directive 2010/30/EU, suppliers of products marketed in accordance with that Directive before the date of entry into force 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.***

- (38) In order to establish *specific product groups of energy related products in accordance with a set of specific criteria and in order to establish* product-specific labels and information sheets , the power to adopt acts in accordance with Article 290 of *TFEU* 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 that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.*
- (39) *In order to ensure uniform conditions for the implementation of this Regulation, implementing powers for determining under the Union safeguard procedure whether a national measure is justified or not and for establishing detailed requirements concerning the 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 Council⁸.*

⁸ *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 Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).*

- (40) *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.*
- (41) 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.
- (42) Directive 2010/30/EU should therefore be repealed,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

1. This Regulation lays down a framework *that applies to energy-related products* ('products') and provides them with a label and standard product information *regarding energy efficiency*, consumption of energy and of other resources by products during use and supplementary information concerning products, *thereby enabling* customers to choose more efficient products *in order to reduce energy consumption*.
2. This Regulation *does* not apply to:
 - (a) *second hand products, with the exception of imported second* hand products;
 - (b) *means* of transport for persons or goods .
3. *This Regulation applies to products placed on the Union market or put into service on the Union market. These products shall comply with this Regulation and its relevant delegated acts.*

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 ***or receives*** 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 **natural or legal** person who sells, hires, offers for hire purchase or displays products to customers **or installers in the course of a commercial activity, whether in return for payment or free of charge**;
- (10) 'Distance selling' means sale, hire or hire purchase by mail order, catalogue, Internet, telemarketing or any other method where the potential **customer** cannot be expected to see the product displayed;
- (11) **'Energy efficiency' means the ratio of output of performance, service, goods or energy to input of energy;**

- (12) 'Energy-related product' *or* '**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, including parts *with an impact on energy consumption during use* which are placed on the market *or* put into service *for customers and that are intended to be incorporated into energy-related products*;
- (13) 'Harmonised standard' means a European standard as defined in Article 2(1)(c) of Regulation (EU) No 1025/2012⁹;
- (14) 'Label' means a graphic diagram, *either in printed or electronic form*, including a *closed scale* using *only* letters from A to G, *each class corresponding to energy savings*, in seven different colours from dark green to red, in order to *inform customers about energy efficiency and energy consumption. It includes rescaled labels and labels with fewer classes and colours in accordance with Article 11(9) and (10)*;
- (15) '*Product group*' means a group of products which have the same main functionality;

⁹ Regulation (EU) No 1025/2012 of the European Parliament and of the Council on European standardisation (OJ L 316, 14.11.2012, p.12).

- (16) '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;
- (17) '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;
- (18) 'Equivalent model' means a model ***which has the same technical characteristics relevant for the label and the same product information sheet, but is*** placed on the market by the same supplier as another model with a different model identifier;
- (19) 'Product information sheet' means a standard table of information relating to a product, ***either in printed or electronic form***;
- (20) 'Rescale' means ***an*** exercise to make more stringent the requirements for achieving the energy class on a label for a particular product ***group***;
- (21) 'Rescaled label' means a label for a particular product ***group*** that has undergone a rescaling exercise, ***and is distinguishable from labels before rescaling while preserving a visual and perceptive coherence of all labels***;

- (22) 'Supplementary information' means information *specified by the relevant delegated act* on the functional and environmental performance of *a product*;
- (23) '*Product database*' means *a collection of data concerning the products covered by this Regulation and its delegated acts, arranged in a systematic manner and consisting of a consumer oriented public part, where information concerning individual product parameters is accessible by electronic means, an online portal for accessibility and a compliance part, with clearly specified accessibility and security requirements*;
- (24) '*Technical documentation*' means *documentation sufficient to enable market surveillance authorities to assess the accuracy of a label and product information sheet of a product, including test reports or similar technical evidence*;
- (25) '*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*;
- (26) '*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*.

Article 3

General obligations of suppliers

1. Suppliers shall ensure that products placed on the market are *accompanied*, free of charge, with accurate *printed* labels and *with* product information sheets *for each individual unit* in accordance with this Regulation and *its* relevant delegated acts *adopted in accordance with Article 16*.

As an alternative to supplying the product information sheet with the product, delegated acts referred to in point (h) of Article 16(3) may provide that it is sufficient for the supplier to enter the parameters of such product information sheets into the product database. In such case, they shall provide the product information sheet in printed form to the dealer on request.

Delegated acts may provide that the label is printed on the packaging of the product.

2. *Suppliers shall deliver printed labels, including rescaled labels in accordance with Article 11(13), and product information sheets free of charge, promptly and at the latest within five working days upon request from dealers.*

3. *Suppliers* shall 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.
4. *Once a unit of a model is in service, suppliers shall request explicit consent from the customer regarding any changes intended to be introduced to the unit in service by means of updates that would be to the detriment of the parameters of the energy efficiency label for the unit, as defined by the relevant delegated act. The customer shall be informed of the objective of the update and of the changes in the parameters, including any change in the label class. For a period proportionate to the average lifespan of the product, the customer shall be given the option to refuse the update without avoidable loss of functionality.*
5. *Suppliers shall not place on the market products designed so that a model's performance is automatically altered in test conditions with the objective of reaching a more favourable level for any of the parameters specified in the delegated act or included in any of the documentation provided with the product.*

Article 4

Obligations of suppliers in relation to the product database

1. *As from 1 January 2019, prior to placing on the market a unit of a new model covered by a delegated act pursuant to this Regulation, suppliers shall enter in the public and compliance parts of the product database the information detailed in Annex I for that model.*

2. *For models covered by a delegated act adopted pursuant to this Regulation, units of which are placed on the market between ... [the date of entry into force of this Regulation] and 1 January 2019, suppliers shall enter into the product database the information set out in Annex I no later than 30 June 2019.*

Until the time of data entry into the product database, suppliers 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.

3. *Suppliers may enter into the product database the information set out in Annex I for models, units of which were exclusively placed on the market before ... [the date of entry into force of this Regulation].*

4. *A product for which any changes with relevance for the label and the product information sheet are made shall be considered as a new model. The supplier shall indicate in the database when units of a model are no longer being placed on the market.*
5. *The obligations referred to in paragraphs 1 and 2 of this Article shall not apply to packages of heaters referred to in Commission delegated Regulations (EU) No 811/2013¹⁰, (EU) No 812/2013¹¹ and (EU) 2015/1187¹², and any subsequent revisions of these Regulations, where the provision of labels for these packages is the sole responsibility of dealers.*
6. *After the last unit of a model has been placed on the market, suppliers shall keep the information in the compliance part of the database for a period of 15 years. Where appropriate in relation to the average life span of a product, the relevant delegated act provided for in point (q) of Article 16(3) may specify a shorter data conservation period. The information in the public part of the database shall not be deleted;*

¹⁰ *Commission Delegated Regulation (EU) No 811/2013 of 18 February 2013 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to the energy labelling of space heaters, combination heaters, packages of space heater, temperature control and solar device and packages of combination heater, temperature control and solar device (OJ L 239, 6.9.2013, p. 1).*

¹¹ *Commission Delegated Regulation (EU) No 812/2013 of 18 February 2013 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to the energy labelling of water heaters, hot water storage tanks and packages of water heater and solar device (OJ L 239, 6.9.2013, p. 83).*

¹² *Commission Delegated Regulation (EU) 2015/1187 of 27 April 2015 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to energy labelling of solid fuel boilers and packages of a solid fuel boiler, supplementary heaters, temperature controls and solar devices (OJ L 193, 21.7.2015, p. 43).*

Article 5
Obligations of dealers

1. Dealers shall:

- (a) display in a visible manner, *including in online distance selling*, the label provided by the supplier or made available *in accordance with point (b) of this paragraph for units of a model* covered by a delegated act;
- (b) *make available to customers the product information sheet, including in physical form at the point of sale upon request;*

2. Where, despite the provisions of Article 3(1) dealers do not have a label, they shall request it from the supplier in accordance with Article 3(2).

3. Where, despite the provisions of Article 3(1) dealers do not have a product information sheet, they shall:

- (a) *request it from the supplier or, if they choose to do so,*
- (b) *print or download it for electronic display from the product database, if these functions are available for that product.*

Article 6

Other obligations of suppliers and dealers

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 visual*** advertisement or technical promotional material for a specific model in accordance with the relevant delegated 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 delegated acts falling under their responsibility, at their own initiative or when required to do so by market surveillance authorities;
- (c) for products covered by ***delegated acts adopted pursuant to*** this Regulation, ***not*** provide or display other labels, marks, symbols or inscriptions which do not comply with the requirements of this Regulation and ***its*** relevant delegated 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 delegated acts adopted pursuant to this Regulation, not supply or display labels which mimic the labels as defined in this Regulation and its delegated acts. This does not affect labels provided for in Member States' legislation, as long as they are not covered by delegated acts adopted pursuant to*** this Regulation.

- (e) *for non energy related products*, not supply or display labels which mimic the *labels* as defined in this Regulation *and its delegated acts*.

Article 7

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 its relevant delegated acts.
2. Where Member States provide incentives for *a* product covered by this Regulation and specified in a delegated act, *those incentives* shall aim at the highest *two significantly populated classes* of energy efficiency, *or at higher classes* as laid down in the applicable delegated act.
3. Member States shall ensure that the introduction of labels *and rescaling of* labels 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 recommendation of common key messages*.

4. Member States shall lay down the rules on penalties and enforcement mechanisms applicable to infringements of the provisions of this Regulation and its delegated acts, and shall take all measures necessary to ensure that they are implemented. The penalties *shall* 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 *entry into force* of this Regulation] and shall notify without delay any subsequent amendment affecting them.

Article 8

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 delegated acts.
2. The Commission shall ***encourage and*** support cooperation and ***the*** exchange of information on market surveillance of energy labelling ***regarding*** products ***covered by this Regulation between*** national authorities of the Member States ***that are*** responsible for market surveillance or ***in charge of the control of products entering the Union market and between them and the Commission, inter alia by involving more strongly the Administrative Co-operation Group (ADCO) on Ecodesign and Energy Labelling.***

Such exchanges of information shall also be conducted when test results indicate that the producer is in compliance with the relevant law.

- 3. Member States' general market surveillance programmes or sector specific programmes established pursuant to Article 18 of Regulation (EC) No 765/2008 shall include actions in order to ensure the effective enforcement of this Regulation.*
- 4. The Commission shall, in cooperation with the Administrative Co-operation Group (ADCO) on Ecodesign and Energy Labelling, elaborate guidelines for the enforcement of this Regulation, in particular as regards best practices of product testing and the sharing of information between national market surveillance authorities and the Commission.*
- 5. Market surveillance authorities shall have the right to recover from suppliers the costs of document inspection and physical product testing in case of non-compliance with this Regulation or its delegated acts.*

Article 9

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 and consumer protection 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 delegated acts. ***Suppliers and dealers*** shall cooperate as necessary with the market surveillance authorities for that purpose.
2. Where, in the course of ***the*** evaluation ***referred to in paragraph 1***, the market surveillance authorities find that the product does not comply with the requirements laid down in this Regulation and its relevant delegated acts, they shall without delay require the supplier, ***or where appropriate, the 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 where appropriate, the dealer* shall ensure that all appropriate corrective *or restrictive* action *in accordance with paragraph 2* 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 where appropriate, the dealer* does not take adequate corrective action within the period referred to in 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 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 where appropriate, the 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 13 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 10

Union safeguard procedure

1. Where, on completion of the procedure set out in *Articles 9*(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 where appropriate, the dealer* and shall evaluate the national measure.

On the basis of the results of *the* evaluation, the Commission shall *adopt an implementing act determining* whether the national measure is justified or not *and may suggest an appropriate alternative measure. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 17(2).*

2. The Commission shall address its decision to all Member States and shall immediately communicate it to them and *to the supplier or dealer concerned*.
3. If the national measure is considered *to be* 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 *to be* unjustified, the Member State concerned shall withdraw the measure.
4. Where the national measure is considered *to be* justified and the non-compliance of the product is attributed to shortcomings in the harmonised standards referred to in *Article 9(6) of this Regulation*, the Commission shall apply the procedure provided for in Article 11 of Regulation (EU) No 1025/2012.
5. *Corrective or restrictive measures pursuant to Articles 9(2), (4), (5), (9) and Article 10(3) shall be extended to all units of a non-compliant model and of its equivalent models, except those units for which the supplier demonstrates that they are compliant.*

Article 11

Procedure for the introduction and rescaling of labels

1. *As regards the products referred to in paragraphs 4 and 5, the Commission shall rescale labels which were in force at ...[the date of entry into force of this Regulation] subject to paragraphs 8 to 12 of this Article.*

By way of derogation from the requirement of achieving significant energy and cost savings set out in point (b) of Article 16(3), where the rescaling cannot achieve such savings, it shall ensure at least a homogenous A-G scale.

2. *Where a label did not exist for a product group prior to ... [the date of entry into force of this Regulation], the Commission may introduce labels subject to paragraphs 8 to 12 of this Article.*
3. *The Commission may further rescale labels rescaled in accordance with paragraph 1 or introduced in accordance with paragraph 2 where the conditions under point (a) or (b) of paragraph 6 are met, and subject to paragraphs 8 to 12.*

4. *In order to ensure a homogenous A to G scale, the Commission shall adopt, by ... [6 years after the date of entry into force of this Regulation], delegated acts in accordance with Article 18 in order to supplement this Regulation by introducing A to G rescaled labels for product groups covered by delegated acts adopted pursuant to Directive 2010/30/EU, with the aim of displaying the rescaled label both in shops and online, 18 months following their entry into force.*

When determining the order of product groups to be rescaled, the Commission shall take into account the proportion of products in the highest classes.

5. *By way of derogation from paragraph 4 of this Article:*

- (a) *The Commission shall present reviews for the product groups covered by Commission Delegated Regulations (EU) No 811/2013 and (EU) No 812/2013 and (EU) 2015/1187 by ... [8 years after the date of entry into force of this Regulation] with a view to rescaling them, and, where appropriate, shall adopt, by ... [9 years after the date of entry into force of this Regulation], delegated acts in accordance with Article 18 in order to supplement this Regulation by introducing A to G rescaled labels.*

In any case, the delegated acts introducing A to G rescaled labels shall be adopted no later than ... [13 years after the date of entry into force of this Regulation].

- (b) *The Commission shall adopt, by ... [15 months after the date of entry into force of this Regulation], delegated acts in accordance with Article 18 in order to supplement this Regulation by introducing A to G rescaled labels for product groups covered by Commission Directive 96/60/EC¹³ and Commission Delegated Regulations (EU) No 1059/2010¹⁴, (EU) No 1060/2010¹⁵, (EU) No 1061/2010¹⁶, (EU) No 1062/2010¹⁷ and (EU) No 874/2012¹⁸, with the aim of displaying the rescaled label both in shops and online, 12 months following their entry into force.*

¹³ *Commission Directive 96/60/EC of 19 September 1996 implementing Council Directive 92/75/EEC with regard to energy labelling of household combined washer-driers (OJ L 266, 18.10.1996, p. 1).*

¹⁴ *Commission Delegated Regulation (EU) No 1059/2010 of 28 September 2010 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to energy labelling of household dishwashers (OJ L 314, 30.11.2010, p. 1).*

¹⁵ *Commission Delegated Regulation (EU) No 1060/2010 of 28 September 2010 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to energy labelling of household refrigerating appliances (OJ L 314, 30.11.2010, p. 17).*

¹⁶ *Commission Delegated Regulation (EU) No 1061/2010 of 28 September 2010 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to energy labelling of household washing machines (OJ L 314, 30.11.2010, p. 47).*

¹⁷ *Commission Delegated Regulation (EU) No 1062/2010 of 28 September 2010 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to energy labelling of televisions (OJ L 314, 30.11.2010, p. 64).*

¹⁸ *Commission Delegated Regulation (EU) No 874/2012 of 12 July 2012 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to energy labelling of electrical lamps and luminaires (OJ L 258, 26.9.2012, p. 1).*

6. *As regards the products for which the Commission may further rescale the labels in accordance with paragraph 3, the Commission shall review the label with a view to rescaling once it estimates that:*

- (a) 30 % of the units of models belonging to a product group sold within the Union market fall into the top energy efficiency class A and further technological development can be expected; or*
- (b) 50 % of the units of models belonging to a product group sold within the Union market fall into the top two energy efficiency classes A+B and further technological development can be expected.*

7. *The Commission shall carry out a review study after it estimated that the conditions of point (a) or (b) of paragraph 6 are met.*

If, for a specific product group, these conditions are not met within 8 years after the date of entry into force of the relevant delegated act, the Commission shall identify which barriers, if any, have prevented the label to fulfil its role.

In the case of new labels it shall carry out a preparatory study based on the indicative list of product groups set out in the working plan.

The Commission shall finalise the review and present the results and, where appropriate, a draft delegated act to the Consultation Forum in 36 months. The Consultation Forum shall discuss the review and the estimate of the Commission on point (a) or (b) of paragraph 6.

8. 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.
9. *By way of derogation from paragraph 8, where technology is expected to develop more rapidly, requirements shall be laid down so that no products are expected to fall in energy classes A and B at the moment of the introduction of the label.*

10. *When, for a given product group, no models belonging to energy classes E, F or G are allowed to be placed on the market any more because of an Ecodesign implementing measure adopted pursuant to Directive 2009/125/EC, the class or classes in question shall be shown on the label in grey as specified in the relevant delegated act. The label with the grey classes shall apply only to new product units placed on the market.*
11. *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, by way of derogation from point 14 of Article 2, contain fewer classes. In that case, the dark green to red spectrum of the label shall be retained.*
12. *Every time the Commission exercises the powers and obligations conferred on it by this Article, it shall act in accordance with Articles 16 and 18.*

13. When, *pursuant to paragraph 1 or 3*, a label is rescaled:

- (a) suppliers shall, *when placing a product on the market*, provide both the current and the rescaled labels *and product information sheets* to dealers for a period of *four* months before the date specified in *the relevant delegated act for starting the display of the rescaled label*.

By way of derogation from the first subparagraph of this point, if the current and the rescaled label require different testing of the model, suppliers may choose not to supply the current label with units of models placed on the market within the four months before the date specified in the relevant delegated act for starting the display of the rescaled label, if no units belonging to the same model or equivalent models were placed on the market before the start of the four-month period. In that case, dealers shall not offer for sale those units before that date. Suppliers shall notify the dealers concerned of this consequence as soon as possible, including when they include such units in their offers to dealers.

- (b) *Suppliers shall, for products placed on the market before the the four-month period, deliver the rescaled label on request from dealers in accordance with Article 3(2) as from the start of that period. For such products, dealers shall obtain a rescaled label in accordance with Article 5(2).*

By way of derogation from the first subparagraph of this point:

- (i) *Dealers who are unable to obtain a rescaled label in accordance with the first subparagraph of this point for units already in their stock, because the supplier has ceased its activities, shall be permitted to sell these units exclusively with the non-rescaled label until 9 months after the date specified in the relevant delegated act for starting the display of the rescaled label; or*
- (ii) *If the non rescaled and the rescaled label require different testing of the model, suppliers are exempted from the obligation to supply a rescaled label for units placed on the market before the four-month period, if no units belonging to same model or equivalent models are placed on the market after the start of the four-month period. In this case, dealers shall be permitted to sell these units exclusively with the non rescaled label until 9 months after the date specified in the relevant delegated act for starting the display of the rescaled label.*

- (c) *Dealers* shall replace the existing labels on products on display, ***both in shops and online***, with the rescaled labels within ***14 working days*** following the date specified in the relevant delegated act ***for starting the display of the rescaled label***. Dealers shall not display the rescaled labels before that date.
- (d) *By way of derogation from points (a), (b) and (c) of this paragraph, delegated acts provided for in point (e) of Article 16(3) may provide for specific rules to address the case where energy labels are printed on the packaging.*

14. Delegated acts adopted pursuant to Directive 2010/30/EU and Commission Directive 96/60/EC shall remain in force until they are repealed by a new delegated act adopted pursuant to this Regulation covering the relevant product group.

The labels introduced by ***Commission Directive 96/60/EC and*** delegated acts adopted in accordance with Article 10 of Directive 2010/30/EU before ... [the date of ***entry into force*** of this Regulation] shall be considered as labels for the purposes of this Regulation .

Article 12

Product database

1. The Commission shall establish and maintain a product database *consisting of a public part, a compliance part and an online portal giving access to these two parts. The product database does not replace or modify the responsibilities of the market surveillance authorities.*
2. *The product database shall serve the following purposes:*
 - (a) *to support market surveillance authorities in carrying out their tasks under this Regulation and its delegated acts, including their enforcement;*
 - (b) *to provide the public with information about products placed on the market, their energy labels and product information sheets;*
 - (c) *to provide the Commission with up-to-date energy efficiency information of products for reviews of energy labels;*

3. *The public part of the database and the online portal shall contain the information set out respectively in points 1 and 2 of Annex I, which shall be made publicly available. The public part of the database shall meet the criteria in paragraph 7 of this Article, and the functional requirements set out in point 4 of Annex I.*
4. *The compliance part of the product database shall contain the information set out in point 3 of Annex I, including the specific parts of the technical documentation as referred to in paragraph 5 of this Article. This documentation shall only be accessible to market surveillance authorities and the Commission. The compliance part shall meet the criteria in paragraph 7 and 8, and the functional requirements set out in point 4 of Annex I.*
5. *The mandatory specific parts of the technical documentation that suppliers shall enter into the database shall cover only:*
 - (a) *a general description of the model, sufficient for it to be unequivocally and easily identified;*
 - (b) *the references of the harmonised standards applied or other measurement standards used;*

- (c) *specific precautions that shall be taken when the model is assembled, installed, maintained or tested;*
- (d) *the measured technical parameters of the model;*
- (e) *the calculations performed with the measured parameters;*
- (f) *testing conditions if not described sufficiently in point (b).*

In addition, suppliers may upload additional parts of the technical documentation on a voluntary basis into the database.

6. *When data other than those specified in paragraph 5 or not available in the public part of the database would become necessary for market surveillance authorities and/or the Commission for carrying out their tasks under this Regulation, they shall be able to obtain them from suppliers on request.*

7. *The establishment of the product database shall follow criteria that ensure:*
- (a) minimising the administrative burden for suppliers and other database users;*
 - (b) user-friendliness and cost-effectiveness; and*
 - (c) automatic avoidance of redundant registration.*
8. *The establishment of the compliance part of the database shall follow criteria that ensure:*
- (a) protection from unintended use and the safeguarding of confidential information by way of strict security arrangements;*
 - (b) access rights based on the need-to-know principle;*
 - (c) that personal data are processed in accordance with Regulation (EC) No 45/2001 and Directive 95/46/EC, as applicable;*
 - (d) that data access is limited in scope to prevent copying larger data sets;*
 - (e) that data access is traceable for suppliers with regard to their technical documentation.*

9. *The data in the compliance part of the database shall be treated in accordance with Commission Decision (EU, Euratom) 2015/443¹⁹. In particular, the specific cyber-security arrangements of Commission Decision C(2006) 3602²⁰ and its implementing rules shall apply. The confidentiality level shall reflect the consequential harm resulting from disclosure of the data to unauthorised persons.*
10. *Suppliers shall have access and editing rights to the information they entered in the product database pursuant to Article 4(1) and (2). A record of changes shall be kept for market surveillance purposes, keeping track of dates of any editing.*
11. *Customers using the public part of the product database shall be able to easily identify the best energy class populated for each product group, allowing them to compare model characteristics and to choose the most energy efficient products.*
12. *The Commission shall be empowered, by means of implementing acts, to specify the operational details of the product database. After consultation of the Consultation Forum provided for in Article 14, those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 17(2).*

¹⁹ *Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41).*

²⁰ *C(2006) 3602 of 16 August 2006 concerning the security of information systems used by the European Commission.*

Article 13

Harmonised standards

1. After the adoption of a delegated act *pursuant to* this Regulation setting specific labelling requirements the Commission shall, in accordance with Regulation (EU) No 1025/2012 , publish references to harmonised standards that satisfy the relevant measurement and calculation requirements of the delegated act in the *Official Journal of the European Union*.
2. When during the conformity assessment of a product such harmonised standards are applied, the *model* shall be *presumed to be in conformity* with the relevant measurement and calculation requirements of the delegated act.
3. *Harmonised standards shall aim to simulate real-life usage as far as possible while maintaining a standard test method. Test methods shall furthermore take into account the associated costs for Industry and Small and Medium Sized Enterprises.*
4. *Measurement and calculation methods included in the harmonised standards shall be reliable, accurate and reproducible, and aligned with the requirements of Article 3(4) and (5).*

Article 14

Consultation *Forum*

In the conduct of its activities under this Regulation the Commission shall ensure in respect of each delegated act *adopted pursuant to Article 16 and each implementing act adopted pursuant to Article 12(12)* 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* delegated acts, the Commission shall test the design and content of the labels for specific product groups with *representative groups of Union customers* to ensure their clear understanding of the labels.

Article 15

Working plan

The Commission shall, having consulted the Consultation Forum referred to in Article 14, establish a ***long-term*** 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 delegated acts ***pursuant to Article 16***. The working plan shall also set out plans for the revision and rescaling of labels of ***product groups in accordance with Article 11(4) and 11(5), with the exception of the rescaling of labels which were in force at ... [the date of entry into force of this Regulation] for which the rescaling is provided for in Article 11 of this Regulation***. ***The working plan shall be updated*** periodically by the Commission after consultation with the Consultation Forum. The working plan may be combined with the working plan required by Article 16 of Directive 2009/125/EC ***and reviewed every three years. The European Parliament and the Council shall be informed annually of the progress made by the Commission in the implementation of the working plan.***

Article 16

Delegated Acts

1. The Commission shall be empowered to adopt delegated acts ***in accordance with Articles 11 and 18 in order to supplement this Regulation by establishing*** detailed requirements relating to labels for specific groups of energy-related products ('specific product groups')
.
2. Delegated acts shall specify 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) ***within the product group, models*** 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 in use;***

3. Delegated acts relating to specific product groups shall specify in particular:
- (a) the definition of the specific product **group** falling under the definition of 'energy-related product' set out in **point 12 of Article 2** 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 and appropriate product differentiation from the customer's perspective. It shall also specify how the A-G steps of the classification, and where applicable energy consumption is displayed in a prominent position on the label;***
 - (c) where appropriate, the use of other resources and supplementary information concerning **the product**, 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 and verifiable by market surveillance authorities;***

- (d) *where appropriate, the inclusion of a reference in the label allowing customers to identify products that are energy smart, that is to say, capable of automatically changing and optimising their consumption patterns in response to external stimuli (such as signals from and via a central home energy managing system, price signals, direct control signals, local measurement) and/or capable of delivering other services which increase energy efficiency and the up-take of renewable energy, with the aim to improve the environmental impact of energy use over the whole energy system;*
- (e) the locations where the label shall be displayed, such as attached to the product *unit where no damage is caused to it*, printed on the packaging, provided in electronic format or displayed on line, *taking into account the requirements of Article 3(1), and the implications for consumers, suppliers and dealers;*
- (f) where appropriate, electronic means for labelling products;
- (g) the manner in which the label and *product* information *sheet* are to be provided in the case of distance selling;

- (h) the *required contents* and, where appropriate, the format and other details concerning the *product information sheet and the* technical documentation, *including the possibility to enter into the parameters of the* product information sheet *into the database in accordance with Article 3(1)*;
- (i) *the verification tolerances to be used by Member States* when verifying compliance with the requirements ;
- (j) *how* the energy class *shall* be included in *visual* advertisements and technical promotional material, including *legibility and visibility*;
- (k) the measurement and calculation methods *referred to in Article 13*, to be used to determine label and product information sheet information, *including the definition of the Energy Efficiency Index (EEI), or equivalent parameter*;
- (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. *The format of these references may take the form of a website address, a dynamic Quick Response (QR) code, a link on on-line labels or any other appropriate consumer-oriented means;*
- (n) how, *where appropriate* energy classes describing the product's energy consumption during use should be shown on the product's interactive display;
- (o) the date for the evaluation and possible *consequent* revision of the delegated act;
- (p) *where appropriate, differences in energy performances in different climatic regions;*
- (q) *as regards the requirement of keeping information in the compliance part of the database in Article 4(6), a data conservation period shorter than 15 years, where appropriate in relation to the average life span of the product.*

4. *The Commission shall adopt a separate delegated act for each specific product group. When the Commission decides on the timing for the adoption of the delegated act for a specific product group, it shall not delay its adoption on grounds related to the adoption of another delegated act concerning another specific product group, unless exceptional circumstances warrant otherwise.*
5. *The Commission shall keep an updated inventory of all delegated acts pursuant to this Regulation and the measures developing Directive 2009/125/EC, including complete references to all relevant harmonised standards.*

Article 17

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. That 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 18

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 power *to adopt delegated acts* referred to in Articles 11 and 16 shall be conferred on the Commission for *a* period of *six years* from ... [the date of *entry into force of this Regulation*]. *The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the six-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.*
3. *The delegations* of power referred to in Articles 11 and 16 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 *that decision*. 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. ***Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. The consultation of Member States' experts shall take place after the consultation pursuant to Article 14.***
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Articles 11 and 16 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 19

Evaluation *and report*

By ... [eight years after the *date of entry into force of this Regulation*], the Commission shall assess the application of this Regulation and *submit* a report to the European Parliament and *to* 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, *energy consumption, greenhouse gases emissions, market surveillance activities, and the cost to establish and maintain the database.*

Article 20

Repeal *and transitional measures*

1. Directive 2010/30/EU is repealed with effect from ... [*the date of entry into force of this Regulation*].
2. 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.
3. *For models, units of which were placed on the market in accordance with Directive 2010/30/EU before ... [the date of entry into force of this Regulation], suppliers shall, for a period ending five years after the last unit 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 21

Entry into force *and application*

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

It shall apply from ... [*the date of entry into force*].

By way of derogation from the first subparagraph, Article 4 concerning the obligations of suppliers in relation to the product database shall apply from 1 January 2019.

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

Done at ...,

For the European Parliament

The President

For the Council

The President

**INFORMATION AND FUNCTIONAL REQUIREMENTS TO BE INCLUDED
IN THE PRODUCT DATABASE**

- 1. Information to be included in the public part of the database by the supplier:**
 - (a) the name or trademark, address, contact details and other legal identification of the supplier;*
 - (b) the model identifier;*
 - (c) the label in electronic format;*
 - (d) the energy efficiency class(es) and other parameters of the label;*
 - (e) the parameters of the product information sheet in electronic format;*
- 2. Information to be included in the online portal by the Commission:**
 - (a) contact details of Member State market surveillance authorities;*
 - (b) working-plan pursuant to Article 15;*
 - (c) minutes of the Consultation Forum;*
 - (d) an inventory of delegated and implementing acts, transitional measurement and calculation methods and applicable harmonised standards;*

3. *Information to be included in the compliance part of the database by the supplier:*
- (aa) the model identifier of all equivalent models already placed on the market;*
 - (c) the technical documentation as specified in Article 12(5).*

The Commission shall provide a link to the Information and Communication System on Market Surveillance (ICSMS), which includes the outcome of compliance checks performed by Member States and provisional measures adopted.

4. *Functional requirements for the public part of the database:*
- (a) each product model shall be retrievable as an individual record;*
 - (b) it shall generate a single viewable, downloadable and printable file of the energy label of each model, as well as the linguistic versions of the complete product information sheet, in all official languages of the Union;*
 - (c) the information shall be machine readable, sortable and searchable, respecting open standards for third party use, free of charge;*
 - (d) an online helpdesk or contact point for suppliers shall be established and maintained, clearly referenced on the portal.*
-

Correlation Table

<i>(Directive 2010/30/EU)</i>	<i>This Regulation</i>
<i>Article 1(1)</i>	<i>Article 1(1)</i>
<i>Article 1(2)</i>	—
<i>Article 1(3)(a) & (b)</i>	<i>Article 1(2)(a) and (b)</i>
<i>Article 1(3)(c)</i>	—
<i>Article 2</i>	<i>Article 2</i>
<i>Article 2(a)</i>	<i>Article 2(12)</i>
<i>Article 2(b)</i>	<i>Article 2(19)</i>
<i>Article 2(c)</i>	—
<i>Article 2(d)</i>	—
<i>Article 2(e)</i>	—
<i>Article 2(f)</i>	—
<i>Article 2(g)</i>	<i>Article 2(9)</i>
<i>Article 2(h)</i>	<i>Article 2(5)</i>
<i>Article 2(i)</i>	<i>Article 2(2)</i>
<i>Article 2(j)</i>	<i>Article 2(4)</i>
<i>Article 2(k)</i>	—
<i>Article 3</i>	<i>Article 7</i>
<i>Article 3(1)(a)</i>	<i>Article 7(3)</i>
<i>Article 3(1)(b)</i>	<i>Article 6(c)</i>
<i>Article 3(1)(c)</i>	<i>Article 7(3)</i>
<i>Article 3(1)(d)</i>	<i>Article 8(2)</i>

<i>(Directive 2010/30/EU)</i>	<i>This Regulation</i>
<i>Article 3(2)</i>	<i>Article 6(b) and Article 9</i>
<i>Article 3(3)</i>	<i>Article 8(1)</i>
<i>Article 3(4)</i>	—
<i>Article 4(a)</i>	<i>Article 5</i>
<i>Article 4(b)</i>	—
<i>Article 4(c)</i>	<i>Article 6(a)</i>
<i>Article 4(d)</i>	<i>Article 6(a)</i>
<i>Article 5</i>	<i>Article 3(1) and Article 6</i>
<i>Article 5(a)</i>	<i>Article 3(1)(a)</i>
<i>Article 5(b), points (i), (ii), (iii) and (iv)</i>	<i>Article 4(6) and Annex I</i>
<i>Article 5(c)</i>	<i>Article 4(6)</i>
<i>Article 5(d)</i>	<i>Article 3(1)</i>
<i>Article 5(d), second subparagraph</i>	<i>Article 3(1)</i>
<i>Article 5(e)</i>	<i>Article 3(1)</i>
<i>Article 5(f)</i>	—
<i>Article 5(g)</i>	<i>Article 3(1)</i>
<i>Article 5(h)</i>	—
<i>Article 6</i>	<i>Article 5(1) and Article 6</i>
<i>Article 6(a)</i>	<i>Article 5(1)(a)</i>
<i>Article 6(b)</i>	<i>Article 5(1)(a)</i>
<i>Article 7</i>	<i>Article 16(3)(e) and (g)</i>
<i>Article 8(1)</i>	<i>Article 7(1)</i>
<i>Article 8(2)</i>	—
<i>Article 9(3)</i>	<i>Article 7(2)</i>
<i>Article 9(4)</i>	—
<i>Article 10(1)</i>	<i>Article 16</i>

<i>(Directive 2010/30/EU)</i>	<i>This Regulation</i>
<i>Article 10(1), second paragraph</i>	<i>Article 16(2)</i>
<i>Article 10(1), third paragraph</i>	—
<i>Article 10(1), fourth paragraph</i>	<i>Article 16(3)(c)</i>
<i>Article 10(2)(a)</i>	<i>Article 16(2)(a)</i>
<i>Article 10(2)(b)</i>	<i>Article 16(2)(b)</i>
<i>Article 10(2)(c)</i>	—
<i>Article 10(3)(a)</i>	—
<i>Article 10(3)(b)</i>	—
<i>Article 10(3)(c)</i>	<i>Article 14</i>
<i>Article 10(3)(d)</i>	—
<i>Article 10(4)(a)</i>	<i>Article 16(3)(a)</i>
<i>Article 10(4)(b)</i>	<i>Article 16(3)(k)</i>
<i>Article 10(4)(c)</i>	<i>Article 16(3)(h)</i>
<i>Article 10(4)(d)</i>	<i>Article 16(3)(b)</i>
<i>Article 10(4)(d), second paragraph</i>	—
<i>Article 10(4)(d), third paragraph</i>	<i>Article 16(3)(b)</i>
<i>Article 10(4)(d), fourth paragraph</i>	<i>Article 11(3)</i>
<i>Article 10(4)(d), fifth paragraph</i>	<i>Article 11</i>
<i>Article 10(4)(e)</i>	<i>Article 16(3)(e)</i>
<i>Article 10(4)(f)</i>	<i>Article 16(3)(h)</i>
<i>Article 10(4)(g)</i>	<i>Article 16(3)(j)</i>
<i>Article 10(4)(h)</i>	<i>Article 11(3)</i>
<i>Article 10(4)(i)</i>	<i>Article 16(3)(i)</i>
<i>Article 10(4)(j)</i>	<i>Article 16(3)(o)</i>
<i>Article 11(1)</i>	<i>Article 18(2)</i>

<i>(Directive 2010/30/EU)</i>	<i>This Regulation</i>
<i>Article 11(2)</i>	<i>Article 18(5)</i>
<i>Article 11(3)</i>	<i>Article 18(1)</i>
<i>Article 12(1)</i>	<i>Article 18(3)</i>
<i>Article 12(2)</i>	—
<i>Article 12(3)</i>	<i>Article 18(3)</i>
<i>Article 13</i>	<i>Article 18(6)</i>
<i>Article 14</i>	<i>Article 19</i>
<i>Article 15</i>	<i>Article 7(4)</i>
<i>Article 16</i>	—
<i>Article 17</i>	<i>Article 20</i>
<i>Article 18</i>	<i>Article 21</i>
<i>Article 19</i>	<i>Article 21</i>
<i>Annex I</i>	—
—	<i>Annex I</i>
<i>Annex II</i>	<i>Annex II</i>

**Statement by the European Parliament, the Council and the Commission
on Articles 290 and 291 TFEU**

"Recalling the Interinstitutional Agreement of 16 April 2016 on Better Law-Making, in particular, its paragraph 26, the European Parliament, the Council and the Commission declare that the provisions of this Regulation shall be without prejudice to any future position of the institutions as regards the application of Articles 290 and 291 TFEU in other legislative files."

Commission statement on financial compensation for consumers

"In view of its ongoing efforts to strengthen the enforcement of Union harmonisation legislation for products, the Commission - in order to address potential financial loss by consumers due to wrongly labelled products or inferior energy and environmental performance than labelled - should investigate whether compensation for consumers in case of non-compliance with regard to energy class displayed on the label can be addressed."

From: LODI Gabriella (CONSILIUM)
Sent: 05 April 2017 14:37
To: BUZEK Jerzy; TAMBURRANO Dario
Cc: ERICSSON Mats; LEONARDELLI Andrea; 'Gerada Clive at MaltaRep'; 'Portelli Robert at MaltaRep'; MCDOWELL Ivana; BIELECKI Janusz (CONSILIUM); HERRMANN Joachim (CONSILIUM); SECRETARIAT DGE2 Energie; ITRE Secretariat; HODSON Paul (EC); NUIJ Robert (EC); DITU Doina (CONSILIUM); GOMES Helena Maria (CONSILIUM); DANCOURT-CAVANAGH Jonathan (CONSILIUM); BAIER Klaus; RISTORI Dominique (EC); HARTSTEIN Ewelina (EC)
Subject: Energy labelling - copy of Coreper letter to the Chair of ITRE + Annex containing the final compromise text
Attachments: Letter EP Energy Labelling 05-04.pdf; Annex to EP letter Energy Labelling 05-04.docx

Dear Mr Buzek, Mr Tamburrano,

please find attached a scanned copy of the letter signed today by Mr. Kerr, Chairman of the Permanent Representatives' Committee, addressed to Mr Buzek, with copies to Mr Tamburrano and Mr. Cañete. The letter confirms Coreper's agreement to the overall compromise reached on the energy labelling Regulation at the fourth trilogue of 21 March 2017, and contains in Annex the consolidated text of the compromise.

The paper version of the letter will follow by regular mail.

Best regards,

Gabriella Lódi
Political administrator



Council of the European Union
General Secretariat

Directorate for Transport, Telecommunications and Energy
Energy Policies, Atomic Questions, Information Society Unit

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