

**PROPOSAL FOR A REGULATION  
SETTING A FRAMEWORK FOR ENERGY EFFICIENCY LABELLING  
- COMMENTS OF INDEPENDENT RETAIL EUROPE -**

**19 NOVEMBER 2015**



## EXECUTIVE SUMMARY

---

Independent Retail Europe supports the EU Energy Label. However, in order for it to be effective and clearly understandable for the consumer, an efficient and well-functioning system is indispensable.

We are concerned that some elements of the current Commission proposal for a *Regulation setting a framework for energy efficiency labelling* will unsettle a relatively well-functioning regime, leading to legislative uncertainty and the development of overly complex rules that would create additional burdens on the retail sector and the millions of SMEs therein.

Please find below our comments as regards the following points:

- ➔ General labelling obligations of dealers and dealers' obligations as regards the product data base
- ➔ Rescaling

## COMMENTS ON THE PROPOSED REVIEW OF THE ENERGY LABELLING FRAMEWORK DIRECTIVE

---

### General labelling obligations of dealers and dealers' obligations as regards the product data base

#### General labelling obligations of dealers (Art. 3 (2) (a))

Independent Retail Europe supports the Commission's proposal that dealers "*shall display...*[the label] *in a visible manner*", which allows for flexibility. A dealer should be able to place the label on a stand next to the product in question; rather than directly on the product.

However, a **change of the relevant delegated acts to Directive 2010/30 is also necessary in order to remove the current challenges for independent retailers** with sufficient legal clarity.

One example: Delegated Regulation 1061/2010 on the energy labelling of household washing machines requires dealers to ensure that each product "*bears the label provided by suppliers*" (Art. 4). Placing these labels directly on products can damage them, resulting in a financial loss for retailers. The delegated acts should therefore offer the same flexibility as the proposed Framework Regulation.

- ➔ Placing labels directly on products can damage them. It should therefore be possible **to simply place the label on a stand next to the product in question.**
- ➔ **A change of the delegated acts to Directive 2010/30 is also necessary to remove this particular burden** for independent retailers
- ➔ **The delegate acts have to be consistent.**

#### Dealers' obligations as regards the product database (Art. 3 (2) (b) / Art. 8)

The Commission proposes that all new products placed on the EU market are registered in an online database, to allow for greater transparency and easier market surveillance by national authorities. The proposal furthermore provides for the possibility that dealers "*where they do not have a label or a rescaled label...print out the label from the product database...or...print out the label or a rescaled label from the supplier's website*".

Independent Retail Europe has **serious concerns about this proposal**:

1. Retrieving and printing the label from the product database or the supplier's website would not only constitute a **considerable administrative burden for independent retailers, it would also multiply the probability of labels being displayed incorrectly**. This could happen for very simple reasons, such as the retailer's printer being defective, leading to a slightly different colouring of the label. This would, in turn, not only increase the risk of penalties for retailers but also of unwillingly confusing and misinforming the consumer.
2. This provision could imply that dealers would have to constantly **monitor the database in order to become aware of a possible rescaling** of one of the product groups he has in store. This is particularly problematic for very small retailers with only a few members of staff. However, for all companies, this obligation would be **very difficult to administer**.
3. **The practicability as well as effectiveness of the database itself can be questioned**. It would not help market surveillance authorities to ensure that products are correctly labelled. For this, product tests are the only effective tool. On the contrary, certain market surveillance authorities, as well as the German Bundesrat in a decision from 25 September 2015 (*Drucksache 324/15 (Beschluss)*) already expressed their concerns that the database would increase their workload. The authorities would need to verify the correctness of the data provided by the suppliers/manufacturers. Current staff levels in the competent authorities would make it difficult for them to effectively fulfil their initial surveillance obligations in addition to the new ones.

Independent Retail Europe therefore proposes the following:

- If established, the database should only be used as a general, **additional information tool**, e.g. for consumers or for dealers to use information for their web stores.
- Dealers should **not be required to constantly monitor the database** in order to be aware of possible rescaling of products.
- **Suppliers should continue to be obliged to provide dealers with the physical/paper label**. This obligation should be very clear in the legal text. Independent Retail Europe therefore supports Recital 9b of the Council Compromise from 3 November 2015.
- **Should the new rules require the retailers to re-label** when a product is being re-scaled, manufactures should immediately inform the retailer about the re-scaling and – if the latter still has the product(s) concerned in store – provide him with a printed energy label for that product. This is the most practical solution since manufacturers are inherently aware of a product being re-scaled. (More on re-labelling in the following section of this document).

- ➔ **It should be a clear obligation of suppliers that they continue to provide retailers with the 'physical' energy label.**
- ➔ **When suppliers fail to fulfill this obligation** (for example where the label is lost or the product is re-scaled), **suppliers should send the 'physical' label separately.**
- ➔ **Dealers should not be required to constantly monitor the database in order to be aware of any re-scaling or retrieve/print the label from it.**

### Re-labelling of products already in store (Art. 3 (2) (b) / Art. 7 (5))

The Commission proposal foresees that whenever an energy label is revised, dealers would have to remove the old labels from all the relevant products that they have in stock and replace them with the new ones. This is a clear change from the existing rules where dealers have to place the label only once, when they have received it together with the product from the manufacturer/supplier.

As established by the Court of Justice of the European Union's in its judgement *Udo Rätzke v S+K Handels GmbH* (C-319/13), **the obligation to add a new label to a rescaled product would create a disproportionate administrative burden for suppliers and dealers, in particular for SMEs.**

Dealers should therefore not be obliged to re-label existing products. Retailers should be allowed to sell the products they have in store with the old label.

Should the new rules, nevertheless make re-labelling a necessity, a one week timeframe to re-label as proposed by the Commission would make it extremely difficult for retailers to comply with the rules. For SME dealers, it would simply be impossible. Independent Retail Europe therefore asks for this **period to be extended to 6 months.**

- ➔ The **obligation for dealers to re-label products already in store would create an immense administrative burden** for groups of independent retailers.
- ➔ **If re-labelling is the only option then its deadline should be extended to 6 months.**

## Rescaling

### Information campaigns (Art. 4 (4))

Independent Retail Europe wants to ensure that consumers have maximum clarity in their transactions. There should therefore be a clear distinction in design from the old to the new label. We further support the Commission's proposal for "*educational and promotional information campaigns*". However, they should not only be aimed at "*promoting energy efficiency and more responsible use of energy by customers*" but also used to inform consumers about the changes resulting from the re-scaling.

- ➔ Educational and promotional information campaigns should be directed at consumers and also inform them about the rescaling and its results.

### Labels and rescaling (Art. 7)

The Commission proposal foresees a return to the 'original' energy labelling scale from 'A to G', including a revised process for rescaling the existing labels. The aim behind the reclassification is to improve consumer understanding and avoid confusion.

Indeed, in some product groups currently on the market, there is an agglomeration of the top efficiency classes. This makes it difficult for consumers to differentiate the different efficiency classes of a given product group. In addition, the introduction of additional "plus classes" (e.g. A +++) would make it even more unclear.

**Independent Retail Europe therefore supports the envisaged rescaling.** However, this was already possible on the basis of the current Framework Directive (2010/30) – **in a practical way, per product group and depending on technological progress.** This idea was taken up by the Council in the discussions of the current proposal. We therefore **support the proposed approach in the Council's compromise** from 3 November 2015.

In any case, the existing and relatively well-functioning regime should not be changed more than absolutely necessary to avoid the development of overly complex rules and creating additional burdens on the retail sector and the thousands of SMEs therein.

- ➔ **Independent Retail Europe generally supports the planned rescaling and the approach chosen by the Council that this should be done on a product-by-product base and depending on technological progress.**
- ➔ **Changes to the existing and relatively well-functioning regime should be kept to a minimum and not lead to additional burdens.**

---

Original version: English – Brussels, November 2015

*Established in 1963, **Independent Retail Europe** (formerly UGAL – the Union of groups of independent retailers of Europe) is the European association that acts as an umbrella organisation for the main groups of independent retailers in the food and non-food sectors.*

*Independent Retail Europe represents retail groups characterised by the provision of a support network to independent SME retail entrepreneurs; joint purchasing of goods and services to attain efficiencies and economies of scale, as well as respect for the independent character of the individual retailer.*

*Our members are groups of independent retailers, associations representing them as well as wider service organizations built to support independent retailers.*

*Independent Retail Europe represents 23 groups and their 363,000 independent retailers, who manage more than 556.000 sales outlets, with a combined retail turnover of more than 770 billion euros and generating a combined wholesale turnover of more than 313 billion euros. This represents a total employment of more than 5.500.000 persons.*

*More information about Independent Retail Europe under [www.independentretailleurope.eu](http://www.independentretailleurope.eu)*