

COMMISSION NOTICE

on the application of energy labelling requirements for electronic displays, household washing machines and washer-dryers, refrigerating appliances and household dishwashers, and of ecodesign requirements on the provision of information for external power supplies

(Text with EEA relevance)

(2020/C 182/02)

Commission Delegated Regulations (EU) 2019/2013 ⁽¹⁾, (EU) 2019/2014 ⁽²⁾, (EU) 2019/2016 ⁽³⁾ and (EU) 2019/2017 ⁽⁴⁾ ('Energy labelling Regulations') adopted in 2019 impose new labelling obligations for electronic displays, household washing machines, household washer-dryers, refrigerating appliances and household dishwashers. Those Regulations will apply from 1 March 2021, but as of 1 November 2020 suppliers must provide a rescaled label with products they place on the market and are also required to enter the parameters of the new product information sheet into the product database.

Commission Regulation (EU) 2019/1782 ⁽⁵⁾ on ecodesign requirements for external power supplies applies from 1 April 2020 and establishes new requirements on information to be provided to end-users, market surveillance authorities and other interested parties. These include redesigning the nameplates affixed to the equipment placed on the market.

In many Member States, factories and laboratories have been closed due to the COVID-19 pandemic, or have had reduced workforce and capacities. This may make it difficult, if not impossible, for manufacturers to test their products and thereby obtain the information necessary for the technical documentation or product information sheet and label, as applicable. Lack of demand due to shop closures means that products with the current labels, or nameplates in case of external power supplies, are stockpiled in the manufacturers warehouses. These aspects may make it impossible for manufacturers to produce and provide a rescaled label or new nameplates with all products placed on the market as of 1 November 2020 or 1 April 2020 in case of external power supplies, as required by the legislation. This situation is expected to be of short-term nature and should be largely resolved before 1 March 2021 for energy labels (when the remaining obligations of the respective Regulations will become applicable) or before 1 October 2020 for external power supplies.

A number of Member States have informed the Commission that they are aware of the difficulties faced by industry and are sympathetic to the problems industry will face complying with their obligations. Various industry associations have also contacted the Commission, indicating difficulties faced.

⁽¹⁾ Commission Delegated Regulation (EU) 2019/2013 of 11 March 2019 supplementing Regulation (EU) 2017/1369 of the European Parliament and of the Council with regard to energy labelling of electronic displays and repealing Commission Delegated Regulation (EU) No 1062/2010, (OJ L 315, 5.12.2019, p. 1).

⁽²⁾ Commission Delegated Regulation (EU) 2019/2014 of 11 March 2019 supplementing Regulation (EU) 2017/1369 of the European Parliament and of the Council with regard to energy labelling of household washing machines and household washer-dryers and repealing Commission Delegated Regulation (EU) No 1061/2010 and Commission Directive 96/60/EC (OJ L 315, 5.12.2019, p. 29).

⁽³⁾ Commission Delegated Regulation (EU) 2019/2016 of 11 March 2019 supplementing Regulation (EU) 2017/1369 of the European Parliament and of the Council with regard to energy labelling of refrigerating appliances and repealing Commission Delegated Regulation (EU) No 1060/2010 (OJ L 315, 5.12.2019, p. 102).

⁽⁴⁾ Commission Delegated Regulation (EU) 2019/2017 of 11 March 2019 supplementing Regulation (EU) 2017/1369 of the European Parliament and of the Council with regard to energy labelling of household dishwashers and repealing Commission Delegated Regulation (EU) No 1059/2010 (OJ L 315, 5.12.2019, p. 134).

⁽⁵⁾ Commission Regulation (EU) 2019/1782 of 1 October 2019 laying down ecodesign requirements for external power supplies pursuant to Directive 2009/125/EC of the European Parliament and of the Council and repealing Commission Regulation (EC) No 278/2009 (OJ L 272, 25.10.2019, p. 95).

Compliance with Union harmonisation legislation such as ecodesign and energy labelling Regulations is monitored and enforced through market surveillance carried out by Member States' market surveillance authorities, in accordance with Article 7(4) of Regulation (EU) 2017/1369 of the European Parliament and of the Council ⁽⁶⁾ on the energy labelling framework and Articles 11 and 14 to 20 of Regulation (EU) 2019/1020 of the European Parliament and of the Council ⁽⁷⁾ on market surveillance and compliance of products.

In view of the problems likely to be experienced to comply with energy labelling obligations and with ecodesign obligations on provision of information regarding external power supplies, the Commission sets out a number of considerations that should be taken into account in the context of the enforcement of these obligations.

First of all, it should be noted that the obligation of Member States' market surveillance authorities to monitor compliance is an ongoing one and not linked to any specific date after the obligations start to apply on 1 April 2020 (for Ecodesign provisions) and 1 November 2020 (for Energy labelling obligations), respectively.

Second, as regards ensuring effective market surveillance, the Commission recalls the requirement laid down in Article 14 (2) of Regulation (EU) 2019/1020 that market surveillance authorities must exercise their powers efficiently and effectively, in accordance with the principle of proportionality.

Third, in any event all current labels in shops will have to be exchanged for rescaled labels from 1 to 15 March 2021, in accordance with Article 11(13) of Regulation (EU) 2017/1369.

The Commission recalls that neither the Commission nor any individual Member State has the authority to set aside any binding deadlines or other obligations established in Union legislation, unless the deadlines or obligations would be amended through the appropriate procedures.

However, when enforcing Union law, Member States are required to duly consider the principle of proportionality. In that context, when Member States apply EU law and enforce the obligations laid down by the relevant Regulations, they are invited to take into account all of the following conditions:

- the exceptional and unforeseen circumstances caused by the COVID-19 crisis, as demonstrated by the manufacturers, which prevent them from complying with the obligations under the energy labelling Regulations,
- the relatively time limited nature of the issue, given the relatively short time period during which manufacturers would be able to continue placing products on the market with the current label only,
- the need for manufacturers to continue to be able to place their products on the market, in particular those stockpiled in their warehouses.

If national market surveillance authorities – in line with these conditions – do not enforce the obligation to supply a rescaled label with the product, at the time of putting it on the market, and to enter the parameters of the product information sheet into the product database as of 1 November 2020, the Commission will refrain from launching infringement procedures as long as that lack of enforcement does not go beyond what is required, is limited in time from 1 November 2020 to 1 March 2021 and suppliers provide missing labels to dealers before 1 March 2021.

A similar approach should apply to enforcement of ecodesign requirements on the provision of information for external power supplies under Regulation (EU) 2019/1782 until 1 October 2020.

⁽⁶⁾ Regulation (EU) 2017/1369 of the European Parliament and of the Council of 4 July 2017 setting a framework for energy labelling and repealing Directive 2010/30/EU (OJ L 198, 28.7.2017, p. 1).

⁽⁷⁾ Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p. 1).