

**SELECTED DRAFT DELEGATED REGULATIONS
ON ENERGY LABELLING REQUIREMENTS FOR WHITE GOODS
- COMMENTS OF INDEPENDENT RETAIL EUROPE -**

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EXECUTIVE SUMMARY

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

For this to be achieved, the respective delegated acts have to properly complement *Regulation (EU) 2017/1369 setting a framework for energy labelling* (hereafter referred to as “the Framework Regulation”). This paper seeks to comment on the following delegated acts on selected white goods:

- *Draft Commission Delegated Regulation supplementing Regulation (EU) 2017/1369 of the European Parliament and of the Council with regard to energy labelling of **household refrigerating appliances and low noise refrigerating appliances***
- *Draft Commission Delegated Regulation supplementing Regulation (EU) 2017/1369 of the European Parliament and of the Council with regard to energy labelling of **household washing machines and washer-dryers***
- *Draft Commission Delegated Regulation supplementing Regulation (EU) 2017/1369 of the European Parliament and of the Council with regard to energy labelling of **household dishwashers***

We believe that some elements of these draft delegated acts unsettle the established, relatively well-functioning legal regime and therefore risk 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:

- ➔ Position of the label
- ➔ Relabelling
- ➔ Display of the label in distance sales and advertising materials

COMMENTS ON THE PROPOSED DELEGATED REGULATION

General labelling obligations of dealers

Position of the label (Article 4.1 (a) in respective Delegated Regulations)

Independent Retail Europe supports the formulation in in Art. 5. 1. (a) of the Framework Regulation 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, the different draft delegated acts currently require dealers to ensure that each product “**bears the label provided by suppliers**” (Article 4.1 (a) in all of the draft Delegated Regulations under consideration). We believe that this is misleading since it can be interpreted by authorities that the

label needs to be fixed / “glued” on to the product. Placing these labels directly on products can damage them, resulting in a financial loss for retailers. The delegated acts should therefore use the same wording and offer the same flexibility as the proposed Framework Regulation. In addition, recent Delegated Regulations, such as the Delegated Regulation (EU) No 65/2014 of 1 October 2013 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to the energy labelling of domestic ovens and range hoods, explicitly foresee the possibility that the label can be placed *“in proximity of the price of the product”*. Back then the European Commission saw the need for further clarification and thus explicitly implied this phrase in the Delegated Regulation. The situation has not changed: There are Member States who interpret Regulations in a quite narrow way. As a result, in order to maintain the general approved understanding that labelling should be possible nearby the product a respective clause has to be added to the Delegated Regulations.

Consequently, to add further clarification, a provision similar to the one in Annex III Article (4) (b) of the draft *Delegated Regulation with regard to energy labelling of light sources* could be added. Such a provision should clearly state that a label can be ***“attached or placed in close proximity to the packaging”*** as long as it is *“clear which product the label refers to”*.

In the case of kitchens built-in, the label of products, such as household refrigerators or dishwashers, should not be required on the outside of the kitchen front but it should be sufficient to put it inside or in proximity of the product. Experience has shown that consumers first want to get a proper impression of the kitchen design before deciding on the energy efficiency of the built-in devices.

- ➔ 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.**
- ➔ **The delegated acts have to be consistent with the Framework Regulation and leave no room for misinterpretation.**
- ➔ **For certain products, such as household refrigerators or dishwashers, which are part of a built-in kitchen, it should be possible to display the label inside the device or in its proximity.**

Display of Energy Label in Distance Selling (not including internet sales) and in Advertising

Independent Retail Europe supports the idea of unified set of rules which specify the labelling obligations of producers and dealers. Consumers should have clear information about the energy efficiency of products.

Concerning non-internet distance selling– the respective Annexes of the Delegated Regulations on white goods provide for a display of the energy class and the range of available efficiency classes in form of an arrow sign. In addition, it must be possible for the customer ***“to access the full label and the product information sheet through a free access website, or to request a printed copy”*** (Annex VII, Art. 1 receptively).

We believe the mentioned ***“free access website”*** should be clarified as **the product data base pursuant to Article 12 of the Energy Efficiency Framework Regulation**. Retailers should not be obliged to install their own webpages with the respective content, which would result in a significant financial and administrative burden for SME retailers. A link to the product data base in the print medium should be sufficient.

As retailers are already obliged to present the product in a comprehensive way, i.e. adding the product's type description to any presentation, the research of the respective product in the product data base would be quite easy. Furthermore, the information on the central product data base will be genuinely correct. The danger of presenting wrong or incomplete information – in cases retailers would have to create their own homepages – could be reduced to a minimum. Finally, the product data base should become a central means of information for customers. For this reason it should be made use of in any possible way – including the linking in distance selling material.

As a general remark, **retailers should be given the opportunity to present the energy efficiency class and the respective scale in writing** (energy efficiency class X in a scale form A to Y). Limiting the means of presentation to the proposed pictogram would impede the entrepreneurial freedom of marketing. In addition, the duty to provide for a link to the product data base would be maintained in these cases, too. The consumer thus would have the possibility to acquire all the information he needs for his purchase decision.

For the reasons mentioned above, **presenting the energy class and the respective range of available energy classes in writing should be also possible in any visual advertisements and other promotional material**, which should be specified in Annex X of the respective Delegated Regulations

- ➔ **Retailers need to have a margin of discretion of how to present the products** and present information to the consumer
- ➔ **For non-internet distance sales, retailers should not be obliged to create their own “free access website”** in order to provide consumer access to the full label and the product information sheet. **A link to the centralized product data based should be sufficient.**
- ➔ For advertising as well as non-internet distance sales, **retailers should be allowed to display the energy class and the range of available energy classes** for the respective product in writing.

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*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 over 369.000 independent retailers, who manage more than 591.000 sales outlets, with a combined retail turnover of more than 946 billion

euros and generating a combined wholesale turnover of more than 288 billion euros. Together they employ more than 6 million persons.

More information about Independent Retail Europe under www.independentretailleurope.eu