

European Office

Comment on the Proposal COM(2015) 341 final for a Regulation setting a framework for

Energy Efficiency Labelling

Key concerns affecting the mechanical engineering industry

Scope

- Industrial goods not intended for or used by consumers should be expressly excluded from the scope of the Directive.

Product database – benefit questionable for market surveillance and manufacturers

- “Paper check” no substitute for physical checks performed on-site
- Uploading data will require: data security, protection for intellectual property, a clear division between product development and market surveillance, technical interfaces that are still lacking, and major bureaucratic cost
- A legal obligation to upload technical documentation is rejected
- Risk posed by a centralised database: inadequate protection against misuse

Rescaling – one size does not fit all!

- Provisions under the new legal framework must be described in a sufficiently product-neutral way and be able to be applied flexibly. Product-specific implementation must accommodate the broad range of affected products (i.e. in terms of short and long technology cycles).
- Instead of leaving classes A and B empty in the event of rescaling, develop criteria under which the higher classes will be sparsely populated.
- Avoid retroactive labelling by traders once products have been marketed.

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1. Introduction

The German Engineering Federation (VDMA) takes this opportunity to comment on the Proposal COM(2015) 341 final for a Regulation setting a framework for energy efficiency labelling.

The VDMA represents more than 3,100 mainly small and medium-sized member companies in the investment goods industry. Mechanical engineering is a key technology sector and a driver of our economy. This sector is the largest industrial employer in Germany, with 1,008,000 employees as at August 2014. About 77 percent of German production is exported.

2. Scope

The mechanical engineering industry could fall entirely within the scope of the Regulation based on the new definition of customers for the purpose of energy efficiency labelling, since the sale of devices and products in the context of a professional relationship is expressly mentioned. VDMA represents many manufacturers of small and very small series, down to a unit quantity of 1. Tailor-made, application-specific manufacture to customer requirements is the norm. That is why the approach of adopting a one-dimensional colour scale for key areas of the mechanical engineering industry is not appropriate. These industrial goods that have a close link to the end consumer. Consumer link is relevant for the positive effect of an energy label. If there is no consumer link, there is no added value for the label on industrial goods that are tailor-made, application-specific and manufactured to customer requirements.

Summary: Industrial goods not intended for or used by final consumers should be expressly excluded from the scope of the Directive. Consumer link is relevant for the positive effect of an energy label. If there is no consumer link, there is no added value for the label on industrial goods that are tailor-made, application-specific and manufactured to customer requirements.

3. Product database – benefit questionable for market surveillance and manufacturers

VDMA shares the analysis of the European Commission of the current weakness of market surveillance, in the area of environmental legislation in particular. The solution to this problem does not lie in product registration, however. The principal weakness of a product database is that entries have to be checked in turn by the market surveillance authorities to ensure they are accurate. It would therefore be important to have the creation of a database backed up with additional capacity within the market surveillance authorities. The draft Regulation does not discuss this additional need. VDMA fears that reviewing entries would tie down capacities that are urgently needed on-site for physical product checks. A mere “paper check” is no substitute for a physical product check. Manufacturers of illegal products will not enter their data into the database. Experience with existing databases, such as the outdoor noise database, confirms doubts regarding the effectiveness of product registration.

As conceived by the European Commission, the database must be divided into a public area and a protected area that only official institutions would have access to. Manufacturers would have to upload technical documentation¹ in addition to the

¹ The technical documentation includes the declaration of conformity, operating instructions, construction drawings and other data relevant to product development. The precise data to be entered should be set down in the product-specific implementing regulations. Depending on the competitive environment and the unit quantity manufactured, the declaration of conformity could even contain critical information for competitors.

declaration of conformity and data sheet. This proposal violates the standard practice of the European legal framework for technical regulations applying to the Single European Market, the “New Legislative Framework” (NLF), under which manufacturers must make the desired documentation available to the market surveillance authorities at any time upon demand. For reasons of data security and protection of intellectual property, the system of requesting documentation on a case-by-case basis should be left in place. Technical documentation contains commercial secrets and competition-critical information that would be a target for misuse and IT attacks if gathered in a centralised database.

The proposal must also be carefully thought through on account of the watered-down division between product development and market surveillance, which normally occurs after the time of marketing as per the “New Legislative Framework”. This requirement is intended to guarantee the independence of the manufacturers and market surveillance authorities. The new database, however, will require uploading before products are brought onto the market.

In addition, the bureaucratic cost to manufacturers must not be underestimated. The estimated figure of 0.5 eurocents per product, or €1,5 million per year for the entire industry, as outlined in the figures following the Proposal, does not seem high. Constant changes to products, however, mean that the entries not only have to be uploaded but must also be constantly maintained. There will also be costs for setting up an IT interface and/or converting all necessary documents into a consistent electronic format. For small and medium-sized enterprises, that could constitute an unnecessary and not insignificant bureaucratic burden.

Summary: VDMA challenges the effectiveness of the new database in terms of the stated objective of bolstering market surveillance. If a database should be established, VDMA rejects the notion of a legal obligation to upload critical technical documentation. References to technical documentation should be deleted from the list of items to be uploaded.

VDMA has developed alternatives that will bolster market surveillance, which will encourage the use of existing systems such as the information exchange service ICSMS rather than creating more bureaucracy. All suggestions can be seen in the paper “Market Surveillance - 9 Recommendations How to Improve Implementation”.

4. Rescaling – one size does not fit all!

VDMA acknowledges that the rapid development of technology in particular product groups that are already subject to regulation has resulted in overpopulation of the highest energy efficiency classes, and that this can cause confusion among consumers (A+++ - 50%). From that perspective, rescaling would seem justified for particular product groups. An across-the-board arrangement to rescale all product groups, however, would be counterproductive. There would be no practical benefit to rescaling if the technology is largely exhausted, if no technological advances are to be expected, and if efficiency classes have been defined that are already highly ambitious in terms of the current state of the art. The decision to rescale should be aligned with the regulatory goal of a given label: in other words, whether it will make the market more transparent for consumers and provide a stimulus to purchase efficient products.

The example of vacuum cleaners makes it clear that rescaling does not automatically lead to the purchase of efficient products. The efficiency label for vacuum cleaners has been in force since 1 September 2014. However, +-classes (A+++ - A+) can be used only once the second stage comes into effect on 1 September 2017. This Regulation gives manufacturers the ability to plan and invest reliably and an incentive to develop more

efficient vacuum cleaners by 2017. If the revision of the Vacuum Cleaner Regulation (EU) 665/2013, which is meant to be completed before 2018, leads to implementation of the requirements of the new Energy Efficiency Labelling Regulation, the +-classes should not be introduced first, leaving the A and B classes vacant. That would give consumers the impression that the market had become more inefficient. It is questionable whether a C label would create any incentives to purchase, and whether the efficiency criterion would still have any weight in the purchasing decision alongside the question of price. For manufacturers, there would be no reward for development efforts made in an attempt to achieve the +-classes, and instead no vacuum cleaner would merit a label higher than a C. The result would be a loss of confidence and the incentive effect would be inhibited.

Summary: VDMA supports a return to the A - G scale. The regulations under the new legal framework should, however, be described in a sufficiently product-neutral way and be able to be applied flexibly, to accommodate the wide range of affected products when implemented on a product-specific basis. In specific product groups for which a significant overpopulation of the +-classes can be demonstrated, a combination of regular adjustment and an initial low classification would seem practical. For products with longer technology cycles and for which the existing implementing regulations work in terms of the regulatory goals, it should be possible to apply higher product classes.

To ensure implementation that is fair from a product perspective, we suggest amending the following Articles:

- Article 7(3): We recommend against an across-the-board arrangement that would leave classes A and B empty in the event of rescaling. Instead, criteria should be developed under which the higher classes will be sparsely populated.
- Article 7(4): Labels should not be regularly “rescaled”, but should be regularly “reviewed”. This change will create greater stability and an ability to plan reliably in the case of products with long technology cycles.
- Article 7(5): Retroactive labelling of products already on the market should not be required. This would confuse the consumers and overburden the retail trade. It would also contravene the fundamental principles of the New Legislative Framework (NLF).
- Article 7(6): A five-year period is unsuitable for product groups for which the new label is introduced shortly before or shortly after the Regulation takes effect. A review within the next five years would appear counterproductive in this case. This also conflicts with the desired ten-year “shelf-life” for a label as per Art. 7(3).

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