

# Comments on the proposal for setting a framework for energy efficiency labelling and repealing Directive 2010/30/EU

Brussels, 17 November 2015

## Proposal for establishment of a product database

The regulatory proposal suggests that the EU Commission shall establish a database for the following purposes:

- (a) to facilitate the market surveillance authorities in carrying out their tasks under this Regulation;
- (b) to provide the Commission with up-to-date energy efficiency information of products for reviews of energy labels;
- (c) to provide the public with information about products placed on the market, their energy labels and product information sheets;
- (d) to enable suppliers to comply with their obligations under Article 3(1a) points (a) and (b)
- (e) to enable dealers to comply with their obligations under Article 3(2) point (b) (ii);

DIGITALEUROPE supports the improvement of market surveillance, however we do not believe that the establishment of database would assist with objective (a) above.

On the contrary, the introduction of the product database requirement would undermine the self-declaration principle behind the Energy Label, by introducing a mandatory registration step to the conformity declaration process. DIGITALEUROPE believes this should not be the way forward in establishing a Digital Compliance system in the EU, as already pointed out in the attached position paper<sup>1</sup>.

As also outlined in the conclusions of the EU Parliament initial appraisal of the EU Commission impact assessment<sup>2</sup>, DIGITAL EUROPE questions the balance of stakeholder opinions that have been considered. Industry stakeholders have not been consulted in any potential solution for any of aforementioned purposes. It is not clear why the EU Commission at this moment is of the opinion that a mandatory database is the best way forward.

### 1. Administrative burden

Current regulations require industry to prove compliance and provide a technical documentation to market surveillance authorities upon request. Typically at the end of the product development before consumer release documents have to be available upon request that prove compliance with the relevant requirement. Depending on the product type and the countries in which the product is placed on the market, this can be a

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1 "Feedback on provisional options and questions on Digital Compliance"

2 <http://data.consilium.europa.eu/doc/document/ST-11376-2015-REV-2/en/pdf>

long list of documents and include compliance evidence for several directives, including energy labelling. This information is available internally in so called technical product files and can be stored in multiple document repositories (e.g. CAD files are stored in design centre)

Hence changing the logic from ensuring that the documentation is made available upon request (and allowing the manufacturers to compile the technical documentation from the technical product file), into a proactive requirement to provide technical documentation electronically for all the products placed on the market results in a significant increase in administrative burden. Based on experience from the past few years we know that a very small percentage of the products have been subject to market surveillance verification. The manufacturer would have to compile and upload the technical documentation in an electronic database for all their products instead of a small percentage.

DIGITALEUROPE questions the justification for requiring manufacturers to take on this huge administrative burden before being able to sell products, bearing in mind the relatively few requests for information that are received from market surveillance authorities (MSAs). The request does not seem justified or proportionate.

## 2. Confidentiality of information

Article 3.1d requires that product information is made available in a database prior to placing the product on the market. Making information available in advance of placing the product on the market is a fundamental change in the nature of the regulation.

Providing technical documentation in a database raises several serious concerns around confidentiality and potential leaks in information. Not only because this information would have to be provided in advance of the market introduction, but in general technical documentation often contains company confidential information, e.g. the Technical Construction File (TCF) or test reports, which could damage business in case this information becomes available to third parties for which the information was not intended originally. Today, MSA's only request a copy of the full TCF or parts thereof in exceptional circumstances where this is justified, and DIGITALEUROPE member companies are happy to respond in such cases.

Experience (e.g. with ENERGY STAR and Ecolabel databases) has shown that European database maintenance has been challenging.

Under no circumstances should any directive or regulation require the uploading of sensitive or confidential information to a central database.

## 3. Improvement of market surveillance

DIGITALEUROPE does not believe that a database will significantly contribute to improved market surveillance. A database can never be a substitute to actual product testing or verification of results. Additionally, those manufacturers trying to circumvent European regulatory requirements will continue to place products on the market without registering them in the database, or upload questionable documents into a database. DIGITALEUROPE therefore questions how a database will help to solve the uneven playing field.

DIGITALEUROPE recognises that MSAs can in certain cases face difficulties finding the correct contacts for their information requests and also for understanding model codes correctly. However, products in scope of the Ecodesign and/or Energy Efficiency Labelling Regulation are always in scope of one or more New Legislative Framework (NLF) directives, most notably the Low Voltage Directive (LVD) 2014/35/EC (formerly 2006/95/EG).

All NLF directives require the manufacturer and importer to provide a contact address<sup>3</sup>. This address can be used by MSA's to request compliance information.

Therefore, there is no additional value in establishing a database in order to find the contact address of manufacturers. Enforcement of the principles set by the New Legislative Framework (NLF) will be sufficient to address the issue.

The setup of a product registration database would require significant investment to fund additional personnel and administrative costs to establish, administrate and maintain the registration system. Investment into national MSAs enforcing existing legislation and enhancing current market surveillance tools could be more efficient.

In light of the concerns above, DIGITALEUROPE does not support mandatory uploading of technical documentation to a central database as a market access condition.

DIGITALEUROPE recognizes the other arguments requesting the establishment of a database, especially on the provision of information about products placed on the market, their energy labels and product information sheets. In order to provide this information to the Commission and the public, DIGITALEUROPE suggests to establish a public information system (not a product registration database) that is strictly limited to non-sensitive, non-confidential information, e.g. online labels and fiches for products falling under the Energy Efficiency Labelling Regulation. Under no circumstances must this database be expanded to contain sensitive or confidential information, either now or in the future.

DIGITALEUROPE requests that any proposal for a public information system should be carefully evaluated and analysed with relevant stakeholders to avoid Europe becoming a bureaucratic environment for selling products. An impact assessment should be performed. We recognise that other regions have established product databases, however it is important that thorough analysis is carried out to understand critical differences between Europe and other regions to make sure the request is proportionate (e.g. one obvious difference is language requirements). Our understanding is that some other regions are only requesting publicly available information to be uploaded to databases – this is a significant distinction.

## Other General Comments

### 1. Proposal for Product Rescaling

DIGITALEUROPE believes that product rescaling should only take place when the top classes for product category are heavily populated. This should be considered on a product by product basis, it may not be appropriate to state that a majority of products cannot fall into class A until at least 10 years later as this depends on technological innovation. It is also essential that consumers understand what the reclassification means and that they do not misunderstand that products have become less efficient.

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**3** The Low Voltage Directive (LVD) 2014/35/EC requires the following: “Manufacturers shall indicate on the electrical equipment their name, registered trade name or registered trade mark and the postal address at which they can be contacted or, where that is not possible, on its packaging or in a document accompanying the electrical equipment. The address shall indicate a single point at which the manufacturer can be contacted. The contact details shall be in a language easily understood by end-users and market surveillance authorities.”

## 2. Practicalities

DIGITALEUROPE believes that the requirement to provide two labels to dealers for a period of six months before implementation is unfeasible and unnecessary. It is not acceptable for products to have to comply with two energy labelling regulations. Additionally, a 10-day transition period for replacing labels is seen as far too short for the administrative burden that this requirement will entail. From a manufacturer perspective, it will be impossible to update internal systems and consequently all websites within this short period of time.

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## ABOUT DIGITALEUROPE

**DIGITALEUROPE** represents the digital technology industry in Europe. Our members include some of the world's largest IT, telecoms and consumer electronics companies and national associations from every part of Europe. DIGITALEUROPE wants European businesses and citizens to benefit fully from digital technologies and for Europe to grow, attract and sustain the world's best digital technology companies.

**DIGITALEUROPE** ensures industry participation in the development and implementation of EU policies. DIGITALEUROPE's members include 59 corporate members and 35 national trade associations from across Europe. Our website provides further information on our recent news and activities: <http://www.digitaleurope.org>

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